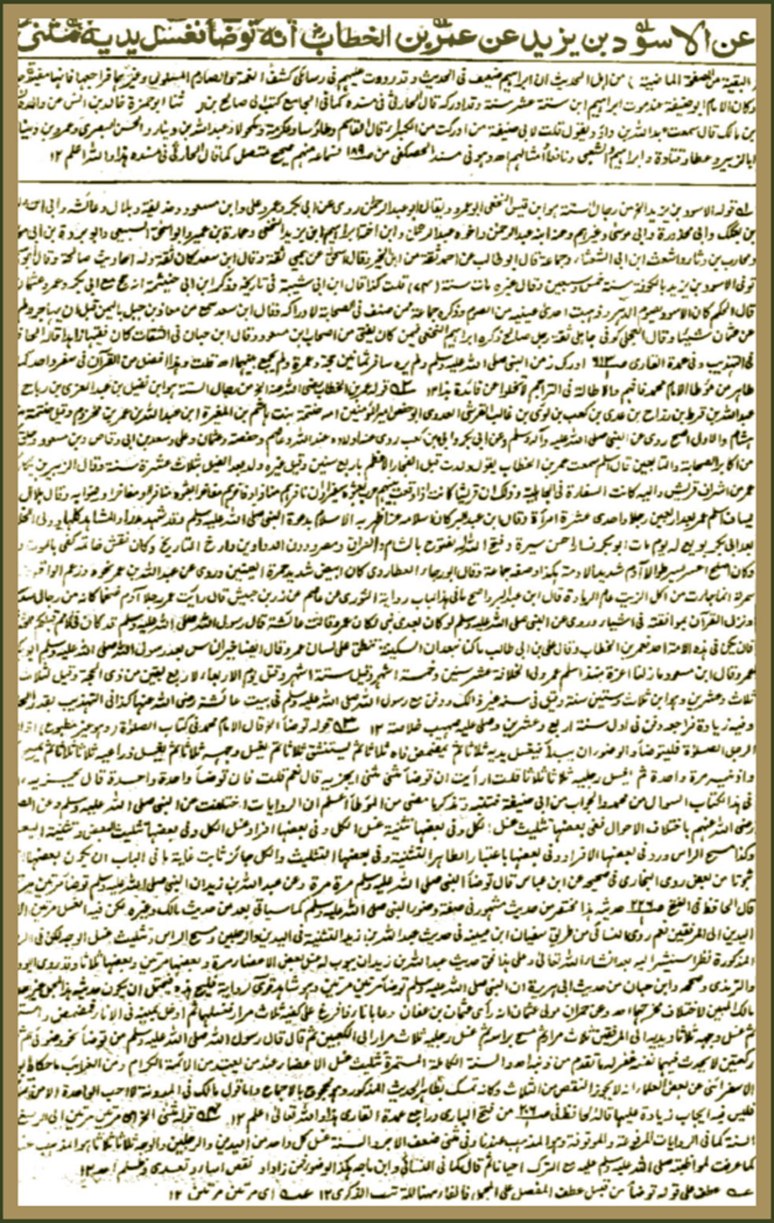
The Kitāb al-Āthār *of* Imam Abū Ḥanīfah



عن الاسود بن يزيد عن عمر بن الخطاب أنه توضأ فغسل يديه ثنتي

THE NARRATION OF
IMAM MUHAMMAD IBN AL-HASAN
ASH-SHAYBANI

The Kitāb al-Āthār *of* Imam Abū Ḥanīfah

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IMAM MUHAMMAD IBN AL-HASAN
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PUBLISHER’S DEDICATION

For my father Moulana Mohammed Ahmad Batha
for his duas and words of encouragement.

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Preface

WE HAVE ADDED various things to the *Kitāb al-Āthār* in order to make it easier for the reader, beginning with a very substantial introduction by the late Muftī Mahdī Ḥasan(may Allah have Mercy on him) of Deoband in which there is a considerable amount of biographical material both on Imām Abū Ḥanīfah and his pupil Imām Muḥammad, may Allah have mercy on them. He also discusses in some detail the provenance of the book showing clearly that it is the authorship of Imām Abū Ḥanīfah as transmitted by his pupil Imām Muḥammad along with amendments, explanatory material and other traditions of the latter.

Some of what was originally from this same introduction we have put as appendices at the end of the book because they contain lengthy discussions of a technical nature of the narrations in which Imām Abū Ḥanīfah or Imām Muḥammad differed from ʿAbdullāh ibn Masʿūd or Ibrāhīm an-Nakhaʿī, and an equally exhaustive study on the narrations of Imām Muḥammad from narrators other than Imām Abū Ḥanīfah.

The only way in which we have modified the *Kitāb al-Āthār* itself is with chapter headings, such as Purification, Prayer, Fasting etc., since the book itself did not have these.

The extremely practical and useful commentary is that of Ḥāfiẓ Riyāḍ Aḥmad al-Multānī, apart from a few obserations by the translator or the commentary's editor, Mufti ʿAbd ar-Raḥmān Mangera, and by Dr. Muḥammad Akram, which are clearly marked thus. It is hard to overestimate the importance this fine commentary has had in this translation.

Another element in the footnotes is the work on sourcing the hadith from the classic works of hadith, which has been done by Dr. Muḥammad Akram. A great many of the traditions are also to be found in another major narration of the *Kitāb al-Āthār*, that of Imām Abū Yūsuf, or in the *Muṣannaf* of Ibn Abī Shaybah, and other major works of hadith. It should be understood by the reader that since the large majority of traditions are from the Companions or from the Followers or Followers of the Followers, then their sources are in these sometimes less famous collections, since the more famous collectors confined themselves to collecting the prophetic hadith.

Dr. Muḥammad Akram has also checked the names of the narrators for spellings. The material on the narrators was also compiled by him.

Muḥammad Ansa prepared the indexes and the glossary of terms.

All the translations of *āyāt* of Qur'ān are from *The Noble Qur'ān, a new rendering of its meanings in English* by Abdalhaqq and Aisha Bewley.

Finally, the translator is greatly indebted to the editors, Dr. Muḥammad Akram, Yūsuf Arvaisi and Mufti ʿAbd ar-Raḥmān Mangera. Without their work the translation is unlikely to have achieved the clarity it has, and yet the mistakes in the translation are all his responsibility.

Introduction

Praise belongs to Allah and He is sufficient, and peace be upon His slaves whom He has chosen. Here are a number of sections that I have written as an introduction to the commentary on the Kitāb al-Āthār, and by Him we seek aid.

THE KITĀB AL-ĀTHĀR was the first book composed in Islam after the generation of the Companions رضي الله عنهم. Al-Imām al-Aʿẓam Abū Ḥanīfah Nuʿmān ibn Thābit the Kūfan, the Follower (*tābiʿ*), wrote it, and Imām Muḥammad ibn al-Ḥasan narrated it from the Imām. But first a preliminary note on the earliest generations and their narration of hadith.

COMPANIONS AND THOSE WHO NARRATED A GREAT DEAL OF HADITH

Even if it does not connect to the *Kitāb al-Āthār*, yet it has a connection to the principle determining Abū Ḥanīfah's acceptance or rejection of hadith. Al-Fāḍil an-Nuʿmānī said after some explanation, "There are two categories of Companions, those who narrated a great deal and those who narrated little," and after narrating the passage from *al-Wābil aṣ-ṣayyib fi'l-kalim aṭ-ṭayyib*, "One of the criticisms levelled by people knowledgeable in *fiqh* among the Companions at some of these enthusiasts for a great deal of narration of hadith who enumerate the hadith, is from the point of view of a lack of accordance with the pillars of the Sharīʿah according to their principles. Then Ibn Mājah narrated in his *Sunan* from Abū Salamah ibn ʿAbd ar-Raḥmān from Abū Hurayrah that the Prophet ﷺ said, 'Do *wuḍū'* because of that [meat or food] which fire has altered.' Ibn ʿAbbās said, 'Should we do *wuḍū'* because of [food cooked by] hot water?' He said to him, 'Nephew, when you hear a hadith from the Messenger of Allah ﷺ do not make cases similar to it.'"

Aḥmad narrated in his *Musnad* from Abū Ḥassān al-Aʿraj that "Two men went to see ʿĀ'ishah and they said, 'Abū Hurayrah narrates that the Prophet ﷺ used to say that, "Evil omens are only with respect to a woman, a riding beast and a house."' So [she became extremely angry] and a half of her flew to heaven and a half in the earth[1], and she said, 'By the One Who sent down the Qur'ān upon Abu'l-Qāsim, it was not thus he used to speak, but rather the Prophet of Allah ﷺ used to say, "The people of ignorance used to say, 'Evil omens are only with respect to a woman, a riding beast and a house.'"' Then ʿĀ'ishah recited, 'Nothing occurs, either in the earth or in yourselves, without its being in a Book before We make it happen…' to the end of the *āyah*. (Sūrat al-Ḥadīd: 21)." Abū Hurayrah's ؓ excuse is that he heard the end of the hadith but not its beginning and he conveyed it as he heard it. Aṭ-Ṭayālisī narrated in his *Musnad* from Makḥūl, "Someone said to ʿĀ'ishah that, 'Abū Hurayrah says, "The Messenger of Allah said, 'Misfortune is in three: a home, a woman and a horse.'"' ʿĀ'ishah said, 'Abū Hurayrah did not memorise it because he came in while the Messenger of Allah ﷺ was saying, "May Allah fight the Jews! They say that, 'Misfortune is in three: a home, a woman and a horse.'" So he heard the end of the hadith but not the beginning.'"

Aṭ-Ṭayālisī also narrated that ʿAlqamah said, "We were with ʿĀ'ishah when Abū Hurayrah came in, so she said, 'Abū Hurayrah, are you the one who narrates that a woman was punished for a cat of hers which she tied up but did not feed or give anything to drink?' He said, 'I heard it from him,' meaning the Prophet ﷺ. She said, 'Do you know who the woman was?' He said, 'No.' She said, 'Along with what she did, the woman was a *kāfir*. The *mu'min* is more honoured by Allah than that he should be punished for a cat, so when you narrate from the Messenger of Allah ﷺ consider carefully how you narrate.'" Most of ʿĀ'ishah's corrections of Abū Hurayrah are narrated by as-Suyūṭī in *ʿAyn al-iṣābah fī* *māʾstadrakathu as-Sayyidah ʿĀʾishah ʿalā aṣ-ṣaḥābah* but in what we have narrated there is sufficient.

My goal in narrating this is that which al-Fāḍil an-Nuʿmāni said in his commentary on it, “It is likely that this is the cause for the Imām al-Aʿẓam’s hesitation over accepting traditions of the likes of Abū Hurayrah if they were unique to him, for Imām Abū Jaʿfar ash-Shizāmārī (by ascription to one of the towns of Balkh) narrated with its connected chain of transmission that Abū Muṭīʿ al-Balkhī said, ‘I said to Imām Abū Ḥanīfah , “What is your view: if you held an opinion and Abū Bakr held an opinion, would you give up your opinion for his?” He said, “Yes.” So I said, “What is your view: if you held an opinion and ʿUmar held an opinion, would you give up your opinion for his?” He said, “Yes, and similarly I would give up my opinion for one held by ʿUthmān, ʿAlī and the rest of the Companions except for Abū Hurayrah, Anas ibn Mālik and Samurah ibn Jundub.””” Ash-Shirāzī said in *al-Mīzān*, “One of them said, ‘Perhaps that was because of a defect in their understanding (*maʿrifah*) and their lack of cognisance of the faculties [needed] for *ijtihād*, which does not impair their unimpeachable standing. And ash-Shāfiʿī often bases himself upon the younger Companions because of their knowledge of how the sharīʿah finally settled rather than what was abrogated, as the king of the people of knowledge, Imām ʿAlāʾ ad-Dīn al-Kāshānī, says about him in *al-Badāʾiʿ*.’”

From this, the opposition of those who would compel the Ḥanafīs to abandon the hadith of the milking animal which has not been milked for some days for the milk to collect, the hadith of the two hollows (*qaltayn*), the hadith concerning the option [to withdraw from a sale] of the buyer and the seller, and other traditions is seen to be mistaken, simply because they do not accord with and do not match the principles (*uṣūl*) and the rules (*qawāʿid*) and that upon which the Ummah concur. So understand this. And Allah knows best.

IMAM ABŪ ḤANĪFAH

In the *Jāmiᶜ al-masānīd* it is written that, “As for the second category of his virtues and notable qualities in which those who came after had no share ؓ, there is that he was the first who recorded the science of the Sharīᶜah and who organised it in chapters. No one preceded Abū Ḥanīfah, since the Companions ؓ and those who followed them in good conduct did not record any organised chapters or structured books, rather they simply depended on the strength of their memories. So when Abū Ḥanīfah saw knowledge spreading widely he feared that less worthy successors would make it go to waste because of that which he ﷺ said:

“Allah, exalted is He, does not withdraw knowledge by snatching it away, he only withdraws knowledge by the death of the people of knowledge, so that ignorant leaders remain who pass judgments, go astray and lead others astray.”

For this reason Abū Ḥanīfah recorded it and arranged it in chapters, in an organised and structured book, beginning with purification, prayer, fasting and the rest of the acts of worship, and then with the ordinary transactions. He concluded the book with the laws of inheritance. He only began with purification and prayer since they are the most important acts of worship and he concluded with the laws of inheritance since they are the last of people’s acts.

The copy of *Kitāb al-Āthār* that I have mentions the laws of inheritance in the middle of the book and concludes with the chapter on amirate. After narrating the hadith with which it concludes there is the tradition of Ibrāhīm on the trial to which speech is prone. Perhaps that is based on the differences between the different written copies.

After he had written *Kitāb al-Āthār*, his companions Imām Abū Yūsuf, Imām Zufar, Imām Muḥammad, Imām al-Ḥasan ibn Ziyād, Imām Ḥammād ibn Abī Ḥanīfah (the *faqīh*’s son), Ḥafṣ ibn Ghiyāth and others of his pupils narrated it from him.

As for Imām Abū Yūsuf, Ḥāfiẓ ᶜAbd al-Qādir al-Qurashī mentions in *al-Jawāhir al-muḍī’ah,* in his biographical notice on his son Yūsuf ibn Yaᶜqūb, “He narrated the *Kitāb al-Āthār* from his father from Abū Ḥanīfah in a very large volume.”

As for the *Āthār* of Zufar, al-Qurashī also mentions it in his biographical notice on Aḥmad ibn Abī Bakr al-Juhanī. He said, "As-Samʿānī said this Aḥmad is a trustworthy narrator who narrated *Kitāb al-Āthār* from Abū Wuhayb from Zufar ibn al-Hudhayl from Abū Ḥanīfah."

As for the narration of al-Ḥasan ibn Ziyād al-Lu'lu'ī, al-Ḥāfiẓ ibn Ḥajar mentioned it in *Lisān al-mīzān* in the biographical notice on Muḥammad ibn Ibrāhīm ibn Khubaysh al-Baghawī because he narrated *Kitāb al-Āthār* from Muḥammad ibn Najīḥ al-Balkhī from al-Ḥasan ibn Ziyād al-Lu'lu'ī from Muḥammad ibn al-Ḥasan from Abū Ḥanīfah.

In the above, Khubaysh is mistakenly written when it should be Ḥubaysh, and the name Shujāʿ ath-Thaljī has been altered to Najīḥ al-Balkhī, and also there is the extra name of Muḥammad ibn al-Ḥasan, which is wrong. He probably added him in thinking that *Kitāb al-Āthār* is the work of Muḥammad ibn al-Ḥasan alone because of his fame for it, for al-Ḥasan ibn Ziyād the companion of Abū Ḥanīfah was an earlier pupil of his than Muḥammad ibn al-Ḥasan, and he never narrated from Muḥammad. He had a skill in arithmetic that none of the others of the [Imām's] companions had and Imām Muḥammad benefited from his books and mentions his statements in his books, as people state openly in their books. So Ibn Ziyād narrated *Kitāb al-Āthār* from Abū Ḥanīfah without any intermediary.

The sound chain of transmission is in the introduction to the *Jāmiʿ al-masānīd*: "Abu'l-Ḥasan Muḥammad ibn Ibrāhīm ibn Jaysh al-Baghawī narrated to us saying: Abū ʿAbdullāh Muḥammad ibn Shujāʿ ath- Thaljī narrated to us saying: al-Ḥasan ibn Ziyād al-Lu'lu'ī the companion of Abū Ḥanīfah narrated to us from Abū Ḥanīfah."

As for the narration of Ḥammād from his father, in the *Jāmiʿ al-masānīd* he said, "As for the narration of the thirteenth *Musnad* which Ḥammād ibn Abī Ḥanīfah narrated from his father," and then he mentioned its chain of transmission to him.

As for the narration of Ḥafṣ ibn Ghiyāth an-Nakhaʿī, al-Karūrī mentioned in the biographical notice on Ḥafṣ ibn Ghiyāth in his *Manāqib*, in the narration of al-Jawzajānī that he said, "I heard him say, 'I heard his *Āthār* from the Imām, and I have not seen anyone of purer heart than him, nor one more knowledgeable than him about those things that corrupt and those that put things right.'"

So it is recognised and well known among the people [of the science of hadith and *fiqh*] that the book is the Imām's. In *al-Badā'iᶜ* there is, "It is mentioned like that in the *Āthār* of Abū Ḥanīfah," and also from him, "It is mentioned in the *Āthār* of Abū Ḥanīfah." We ascribe it to the Imām rather than Muḥammad or to anyone else, and only [insist] on this because people in general, and even some of the elect, believe that the Imām had no compositions in *fiqh* or hadith, to the extent that most of those who deny *taqlīd* have popularised this among the ignorant generality.

Imām ash-Shāfiᶜī borrowed the books of Imām Abū Ḥanīfah from Muḥammad in order to study them. Muḥammad lent them to him. Al-Fāḍil an-Nawāb Ṣiddīq Ḥasan Khān stated so in *Ittiḥāf an-nubalā' al-mutqinīn* in the biographical notice on Abū Ḥanīfah. Imām al-Muwaffaq al-Makkī said in the sixth rule in his *Manāqib Abī Ḥanīfah wa aṣḥābih*, "Muḥammad ibn Shujāᶜ mentioned that among his compilations there were over seventy thousand hadith from the Prophet ﷺ and an equal number from the Companions. Abū Ḥanīfah chose the *Āthār* from forty thousand hadith."

Imām Abū Yaḥyā Zakariyyā ibn Yaḥyā an-Naysābūrī mentioned in his book *Manāqib Abī Ḥanīfah* with its chain of transmission from Yaḥyā ibn Naṣr ibn Ḥājib, "I heard Abū Ḥanīfah [say], 'I have boxes full of hadith of which I have only published the little by which people will benefit.'" Al-Ḥasan ibn Ziyād said, "Abū Ḥanīfah used to narrate four thousand hadith, two thousand from Ḥammād ibn Abī Sulaymān and two thousand from the rest of his shaykhs." That which al-Muwaffaq mentioned in his *Manāqib*, and what he meant by that was the hadith concerning legal rulings (*aḥkām*), because Imām Abū Ḥanīfah was one of the meticulous, prolific memorisers, but the hadith concerning legal rulings do not amount to more than two thousand, as they say. Al-Khawārizmī related with its chain of transmission that al-Ḥasan ibn Ṣāliḥ said, "Abū Ḥanīfah scrutinised the abrogating and abrogated [hadith] diligently and he would act by a hadith if in his view it was firmly established as being from the Prophet ﷺ and his Companions. He knew the hadith of the people of Kūfa and the *fiqh* of the people of Kūfa, and he diligently followed that which the people of his city practised. He said, 'The Book of Allah has abrogating and abrogated [*āyāt*].' He memorised the last practice of the Messenger of Allah ﷺ from the time of his death, that had reached his city." And he narrated with its chain of transmission that Aḥmad ibn al-Mughlis said, "I heard Yaḥyā ibn Ādam say, 'Some hadith are abrogating and some are abrogated just as in the Qur'ān some [*āyāt*] are abrogating and some abrogated. An-Nuʿmān [Abū Ḥanīfah] collected all of the hadith of the people of his city [Kūfa] and then he investigated what was the last practice of the Messenger of Allah ﷺ upon which he died and he would make his verdict according to that, and by that he was a *faqīh*.'"

Thus, the incorrectness of the statement of those who say that Abū Ḥanīfah only knew seventeen hadith must be clear to you. Al-Fāḍil an-Nawāb Ṣiddīq Ḥasan Khān narrated this saying in his book *Abjad al-ʿulūm wa'l-ḥiṭṭah* without responding to it along with his knowledge that it was a huge mistake, which his [Abū Ḥanīfah] books and the books of his companions refute. In this *Kitāb al-Āthār* there are more than a hundred [prophetic] hadith. In [the book of] ad-Dāraquṭnī alone there are more than seventeen hadith narrated by Imām Abū Ḥanīfah. In *Tadhkirat al-ḥuffāẓ, al-Mustadrak* of al-Ḥākim, *al-Muʿjam aṣ-ṣaghīr* of aṭ-Ṭabarānī, the *Musnad* of Abū Dāwūd aṭ-Ṭayālisī, the *Sunan* collections of al-Bayhaqī and aṭ-Ṭaḥāwī, the *Muwaṭṭa'* of Muḥammad and his book *al-Ḥujjah,* and in other books of hadith there are hadith narrated by Imām Abū Ḥanīfah ؓ. Take a look at *ʿUqūd al-jawāhir al-munīfah, Jāmiʿ al-masānīd* and *Tansīq an-niẓām ʿalā musnad al-Imām,* because these are sufficient for those who narrate this mistaken statement. We will produce an enumeration of the hadith that are in the *Kitāb al-Āthār* in a separate section, inshā'Allāh exalted is He.

Imām al-Muwaffaq mentioned in his *Manāqib* with its chain of transmission from aṣ-Ṣumayrī by way of Yaḥyā ibn Maʿīn that Yaḥyā ibn al-ʿArīs said, “I saw Sufyān ath-Thawrī when a man with some standing in knowledge and worship came to him and said, ‘Abū ʿAbdullāh, what do you hold against Abū Ḥanīfah?’ He asked, ‘What about him?’ He said, ‘I heard him saying something in which there was fairness and a clear argument, that, “I base myself upon the Book of Allah when I find [what is needed] in it. Whatever I cannot find in it, then I base myself on the Sunnah of the Messenger of Allah ﷺ and the *ṣaḥīḥ* traditions from him that we can establish [are narrated] through the hands of trustworthy narrators. If I cannot find [what is needed] in the Book of Allah nor in the Sunnah of the Messenger of Allah ﷺ, then I base myself on the verdict of whomever I wish of his Companions leaving the verdict of whomever I wish. Moreover, I would not leave their verdict for anyone else’s verdict. When the matter reaches Ibrāhīm, ash-Shaʿbī, al-Ḥasan, Ibn Sīrīn, Saʿīd ibn al-Musayyab” – and he enumerated some men – “who exerted their intellects to arrive at a judgment (*ijtihād*), then I am able to exert my intellect to arrive at a judgment as they did.”’”

For that reason you see in the *Kitāb al-Āthār* that he chooses the verdict of Ibn Masʿūd from among the Companions to such an extent that someone might think that he never differs from him, but then you do see him differing from him and taking the verdict that ʿUmar or someone else reached when his exercise of judgment found that appropriate. It is similar with the verdict of Ibrāhīm an-Nakhaʿī in his narrating the *madhhab* of Ibn Masʿūd and of those among the Followers, so much so that you think he would never contradict him, but then you see him contradict his verdict and take that of ash-Shaʿbī, al-Ḥasan, Ibn Jubayr, Ibn Sīrīn, ʿAṭā’ ibn Abī Rabāḥ, Makḥūl or Ibn al-Musayyab and openly abandon his [Ibrāhīm an-Nakhaʿī] verdict if his exercise of judgment found that appropriate.

That becomes apparent from the statements of Muḥammad in *Kitāb al-Āthār* after his narrating from Ibn Masʿūd or from Ibrāhīm, “We do not adhere to the words of Ibrāhīm, but on the contrary we adhere to the words of so-and-so or so-and-so,” and I will mention that in a separate section, Allāh willing, exalted is He.

It is obvious from all of this that Imām Abū Ḥanīfah was the author of the *Kitāb al-Āthār* and his companions narrated it from him, but along with that it is ascribed to them and not to him by the people of knowledge who call it the *Kitāb al-Āthār* of Muḥammad, the *Kitāb al-Āthār* of Abū Yūsuf, the *Kitāb al-Āthār* of Zufar and the *Kitāb al-Āthār* of al-Ḥasan ibn Ziyād.

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There are also extras in the *Āthār* of Imām Muḥammad that clarify his *madhhab* and the *madhhabs* of his shaykhs and his taking a contrary verdict when he did do that, saying, for example, "And we adhere to that and it is the verdict of Abū Ḥanīfah," and his saying, "that is the verdict of Abū Ḥanīfah, but we do not adhere to it, rather we adhere to the verdict of so-and-so," and so he added a chapter into the book explaining his exertion to reach judgments (*ijtihād*). So the book became useful and is ascribed to him, for the same reason the *Muwaṭṭa'* is ascribed to him. And Allah knows best what His slaves intend.

I suffice myself with this and have given up a great deal of transmission [of texts] for fear of excess, and some of that will come in other sections.

A NOTE ON QIYĀS – ANALOGICAL DEDUCTION

In this respect, the statement of those who say that Abū Ḥanīfah exercised a great deal of analogical reasoning and acted according to it, and abandoned hadith, is mistaken. They mention, in the hope of forcing someone to accept their position, the saying, "The first to use analogical reasoning was Iblīs." However, this person has not understood that Iblis was the first who rejected to follow the decision and to act in emulation (*taqlīd*) of it, but the angels were the first of those who did act in emulation and they did not seek any proof (*dalīl*) from Allah, exalted is He, and did not set up an argument in opposition to His judgement as did Iblīs, may Allah curse him. So here the matter has become reversed, so realise that!

And Allah knows best. Abū Ḥanīfah explained the meaning of “The first to use analogical reasoning was Iblīs,” as the transmission of the expression of *al-Mīzān* will afterwards follow, just as I have narrated it.

THE EMINENCE OF IMAM ABŪ ḤANĪFAH

Adh-Dhahabī also said in his treatise on trustworthy narrators about whom there was some discussion but nothing which would require their being rejected, “Ibn Maʿīn was a stringent Ḥanafī in his *madhhab* even though he was a hadith scholar.” Ṣadr al-A’immah al-Makkī said in *Manāqib al-Imām al-Aʿẓam*, “The scholars of hadith agree unanimously that Wāsiṭ did not produce the like of Yazīd ibn Hārūn in respect of his memorisation, his meticulous attention to detail, his doing without the world and all the varieties of virtues which he had, and that he narrated from Abū Ḥanīfah along with his high standing and advanced age, and he would ask him about issues in *fiqh* and would incline towards his verdict.” He said, “And Yazīd ibn Hārūn said in the narration of Ibrāhīm ibn ʿAbd al-ʿAzīz when he was asked when a man could issue *fatwā*, ‘When he is like Abū Ḥanīfah, and it is absolutely out of the question that he will become like that.’ Then he said, ‘[He had] absolutely no need of investigating their books and their knowledge, and yet a man would become learned in *fiqh* through their books.’[2]” He said, in the narration of Muḥammad ibn Aḥmad ibn al-Junayd, that he had not heard of the like of Abū Ḥanīfah among the preceding early generations in respect of his art. He said, “Only intelligent men love the sayings of Abū Ḥanīfah and only the deeply understanding of them grasp and retain them.” He said, in the narration of Aḥmad ibn ʿAlī ibn Mūsā, “When Abū Ḥanīfah spoke in a gathering, people’s necks were humbled to him.” He said, in the narration of ʿAbd ar-Raḥīm ibn Ḥabīb, “Abū Ḥanīfah is the most knowledgeable of people.” He said, in the narration of Ḥafṣ ibn ʿAlī, “I never saw a black-haired person[3] with more *fiqh* than Abū Ḥanīfah.”

It is transmitted from Abū Muḥammad al-Ḥārithī in his own words, saying, “Ibrāhīm ibn ʿAlī at-Tirmidhī informed us, ‘Muḥammad ibn Saʿd informed us saying, “I heard from someone who attended Yazīd ibn Hārūn, and with him were Yaḥyā ibn Maʿīn, ʿAlī ibn al-Madīnī, Aḥmad ibn Ḥanbal, Zuhayr ibn Ḥarb and a large body of others, when someone came seeking a judgment in *fiqh* and asked him about a case. He said, ‘Yazīd said to him, “Go to the people of knowledge.” So ʿAlī ibn al-Madīnī said to him, “Are the people of knowledge and hadith not with you?” He said, “The people of knowledge are the companions of Abū Ḥanīfah and you are pharmacists[4].”””’”’” Ṣadr al-A’immah mentioned in *Manāqib al-Imām al-Aʿẓam*, “Yazīd رحمه الله told the truth because the people of *fiqh* are more knowledgeable about the meanings of the hadith, as at-Tirmidhī declared openly in his *Jāmiʿ* in the chapter on what has been narrated about washing the dead.”

Ḥāfiẓ Ibn al-Jawzī said in *Dafʿ shibh at-tashbīh*, “Know that there are fine and subtle points in the hadith which only *ʿulamā’* who are learned in *fiqh* recognise, sometimes from their transmission, sometimes from unveiling of their meanings.” The like of this is narrated as the saying of al-Aʿmash addressed to Abū Ḥanīfah, “You are the physicians and we are the pharmacists.” Ḥāfiẓ Ibn ʿAbd al-Barr narrated in *Jāmiʿ bayān al-ʿilm* with its chain of transmission that ʿUbaydullāh ibn ʿUmar said, “I was in a gathering of al-Aʿmash’s and a man came and asked him about an issue but he did not answer him about it. Then he looked around and there was Abū Ḥanīfah. He said, ‘Nuʿmān, you speak about it,’ and he said what he said about it. He asked, ‘From where [did you get this judgment]?’ He said, ‘From a hadith which you narrated to us.’” He said, “So al-Aʿmash said, ‘We are the pharmacists and you are the doctors.’” It was from this point of view that Abū Muḥammad al-Yazid said:

The word of a “*muftī*” profits not the ignorant:
  “from so-and-so,” and his saying, “from so-and-so,”
if one comes to him for guidance and he rules

in line with two hadith which have two meanings.
One who conveys hadith without knowing
their interpretation is as a pharmacist when
he casts all existing cures before him, yet is
ignorant of medicine and nowhere near.

as Ibn ʿAbd al-Barr narrates in *al-Jāmiʿ*.

THE HISTORY OF TAQLĪD

Imām Zufar, al-Ḥasan ibn Ziyād al-Lu'lu'ī, Abū Yūsuf, Muḥammad ibn al-Ḥasan, Fudayl ibn ʿIyāḍ, ʿAlī ibn Mahr, ʿAlī ibn Jaʿd, Ibrāhīm ibn Ṭahmān al-Imām al-Ḥāfiẓ, Yaḥyā ibn Zakariyyā ibn Abī Zā'idah, Ḥafṣ ibn Ghiyāth, al-Qāsim ibn Maʿn al-Masʿūdī, Imām al-Layth ibn Saʿd and others were all Ḥanafis. Before the year 200 AH they were all ascribed to Abū Ḥanīfah and would give *fatwā* according to his verdict. From this it must become obvious to you that the foundation of emulation of the judgment of a scholar (*taqlīd*) was laid down before 200 AH but at that time it was recommended rather than invariably so. Then, if another foundational text were shown to them contrary to the statement of the one whose statement they emulated, they would abandon his statement according to the instruction of the imams who exercised *ijtihād* and they would act according to the foundational texts.

As for that which is in *Ḥujjat Allāh al-bālighah* that emulation of the judgment of scholars came about after 400 AH, he meant that it became the invariable case and obligatory because of the shortcomings of intellects and understandings and the paucity of knowledge in the great majority of people; but if that is not the case then this statement (of *Ḥujjat Allāh al-bālighah*) is not sound. How could that be when there is the *Asadiyyah*, the foundation of the *Mudawwanah al-kubrā* which Asad ibn al-Furāt the *qāḍī* of al-Qayrawān – who travelled to ʿIrāq on the advice of Imām Mālik and learnt *fiqh* from Abū Yūsuf – compiled from Muḥammad and others of the companions of Abū Ḥanīfah and then returned to al-Qayrawān and spread the *madhhabs* of Abū Ḥanīfah and Mālik in al-

Qayrawān, later confining himself to the *madhhab* of Abū Ḥanīfah which spread widely in north and west Africa, all of this well before the fourth century? Ḥāfiẓ Maʿn ibn Manṣūr ar-Rāzī, Ḥāfiẓ ʿAbdullāh ibn Dāwūd al-Khuraybī, ʿAbdullāh ibn Yazīd Abū ʿAbd ar-Raḥmān al-Muqrī, Asad ibn al-Furāt al-Qayrawānī, Makkī ibn Ibrāhīm al-Ḥanẓalī, Abū Nuʿaym al-Faḍl ibn Dukayn, Imām ʿĪsā ibn Abān al-Baṣrī, Ḥāfiẓ Muḥammad ibn Samāʿah at-Tamīmī, Ibrāhīm ibn Yūsuf al-Balkhī al-Mākiyānī, Abu'l-Layth al-Ḥāfiẓ ʿAbdullāh ibn Sarīḥ ibn Ḥajar al-Bukhārī, Imām Muḥammad ibn Shujāʿ ath-Thaljī, Ḥāfiẓ Abu'l-ʿAbbās Aḥmad ibn Muḥammad ibn ʿĪsā al-Barqī, Abu'l-Faḍl ʿUbaydullāh ibn Wāṣil al-Bukhārī, Ḥāfiẓ Ibrāhīm ibn Maʿqal an-Nasafī and others were all hadith scholars who were Ḥanafīs who acted in emulation of Abū Ḥanīfah and they were all before the fourth century. Therefore emulation of other scholars was current before then but it was by nature recommended (*mustaḥabb*) and not invariable.

Those who died in the fourth century were Abū Yaʿlā al-Mawṣilī, Aḥmad ibn ʿAlī ibn al-Muthannā, Ḥāfiẓ Abū Bishr ad-Dūlābī Muḥammad ibn Aḥmad ibn Ḥammād, Abū Jaʿfar aṭ-Ṭaḥāwī, Ḥāfiẓ Abu'l-Qāsim ʿUbaydullāh ibn Muḥammad Abu'l-ʿAwwām, Ḥāfiẓ Abū Muḥammad ʿAbdullāh ibn Muḥammad al-Ḥārithī, Ḥāfiẓ Abu'l-Ḥusayn ʿAbd al-Bāqī ibn Qāniʿ and others, all Ḥanafī hadith scholars who acted in emulation of Abū Ḥanīfah and spread his *madhhab*, so much so that many people entered into his *madhhab* and acted in emulation of him, all of which was before the fourth century. Many hadith scholars acted in emulation of Abū Ḥanīfah, Mālik ibn Anas, Muḥammad ibn Idrīs ash-Shāfiʿī and Imām Aḥmad ibn Ḥanbal ﵏ but I have neglected to mention them all for fear of being too lengthy.

Therefore, the statement in *Ḥujjat Allāh al-bālighah* that emulation of scholars originated after the fourth century is not intended without qualification, so take note of that. Check the magazine *Daʿwat al-Ḥaqq*, currently published under the direction of Mawlawī Waḥīd az-Zamān al-Kirānwī from Dār al-ʿUlūm at Deoband, in which Ḥanafīs who were hadith scholars are mentioned chronologically from the Hijrah of the Prophet, upon him thousands and thousands of blessings and peace from Allah the Almighty the All-Knowing.

IMĀM ABŪ ḤANĪFAH WAS THE EARLIEST OF THE FOUR IMĀMS

The author of the *Mishkāt* said, “The explanation of the biographical notices of the Four Imāms in *al-Ikmāl* is that I have given precedence to Mālik ibn Anas over the other three because he is earlier and older and greater in knowledge along with other merits of his,” but this is not correct because Mālik was born in 95 AH or so and Imām Abū Ḥanīfah, as is well known, was born in 80 AH or 70 AH or 62 AH according to the different contrary narrations on his date of birth. So Imām Mālik was younger than Abū Ḥanīfah. Ḥammād ibn Abī Ḥanīfah narrated from Mālik ibn Anas, as they mention in the books, and they reckon this as an example of an older man narrating from a younger man, so how could Mālik be older and have more precedence [in terms of being closer in years to the origins] in knowledge than Abū Ḥanīfah? The author of *al-Ikmāl* said in his biographical notice on Abū Ḥanīfah, “If we were to devote ourselves to explanation of the merits and virtues of Abū Ḥanīfah we would have to give lengthy discourses which even then would not attain the goal, because he was a man of knowledge who acted by his knowledge, was scrupulous, doing without, devoted to worship, and an imam in the sciences of the Sharīʿah.”

THE DISCERNMENT (FIQH) OF THE IMĀM, HIS ACUTE INTELLIGENCE, ASTUTENESS AND THE FULLNESS OF HIS INTELLECT

Al-Muwaffaq related in his *Manāqib* with its chain of transmission to Dāwūd aṭ-Ṭā’ī, that people’s *muftī* in Kūfa was Ḥammād ibn Abī Sulaymān. Ḥammād had a son called Ismāʿīl. When Ḥammād died, they decided that Ismāʿīl should sit patiently as their *muftī*. But they made enquiries and found out that his great love was poetry, chatting at night and history (*ayyām an-nās*). Abū Bakr an-Nahshalī, who had been a companion of Ḥammād, Abū Burdah, Muḥammad ibn Jābir al-Juʿfī and a whole group of Ḥammād's circle said, "Abū Ḥuṣayn and Ḥabīb ibn Abī Thābit said, 'This seller of *khazz*[5] fabric has good knowledge even if he is young, so insist that he sit to issue *fatwā*.'" They did that, and he was a prosperous man who was purely and open-handedly generous. So he sat to issue *fatwā* and made himself be patient with them, he shared with them and loved them excellently well, the judges and amirs honoured him and his affair became elevated and the highest strata of society frequented him.

Then after them there came Abū Yūsuf, Asad ibn ʿAmr, al-Qāsim ibn Maʿn, Abū Bakr al-Hudhalī, and al-Walīd ibn Abān. Those who competed with him and spoke critically of him were Ibn Abī Laylā, Sharīk, Ibn Shabrah and a whole group, and they would oppose him and seek to dishonour and disgrace him. His affair continued to increase and become exalted, the number of his companions grew so much that his circle became the largest in the mosque, the fullest in answering questions. He was patient with them, and was expansive and gave fully to every weak person among them, and gave gifts to the prosperous. So people's faces turned towards him to such an extent that rulers, judges and nobles honoured him, and he undertook the difficult and accidental matters. Everyone praised him. He did things of which the Arabs were incapable, being strengthened for that by his vast knowledge and being helped by [Divine] decrees." He said, "He used to say, 'The *qāḍī* is like someone swimming in the sea; however much he has to swim who, including those who are knowledgeable, can he please?" I say that the imam of the imams Abū Bakr az-Zarbakhrī narrated this account and he added in his version, "And al-Walīd, al-Ḥasan ibn Ziyād, Dāwūd aṭ-Ṭā'ī, Yūsuf ibn Khālid as-Samtī, Zakariyyā ibn Abī Zā'idah – properly Yaḥyā ibn Zakariyyā ibn Abī Zā'idah – Nūḥ ibn Abī Maryam, ʿAbdullāh ibn al-Mubārak, al-Mughīrah ibn Ḥamzah, and Muḥammad ibn al-Ḥasan, may Allah have mercy on them. There were forty men who compiled books on *fiqh* from among Abū Ḥanīfah's companions."

In the same work, he narrated with a chain of transmission from Sahl ibn Muzāhim that [the latter] said, "The words of Abū Ḥanīfah he took from the trustworthy, in flight from hideous wrong, and in detailed investigations of people's ordinary transactions. As long as they go straight in it and their affairs are basically in line with it, their affairs are accomplished according to analogical reasoning. But when people become corrupted then he accomplished it according to *istiḥsān* [the application of discretion in a legal decision] as long as the *istiḥsān* availed itself for him. When *istiḥsān* was not possible for him then he would resort to that which the Muslims practised. He would connect to well-known hadith upon which people were unanimously agreed and then he would deduce analogically [from them] as long as analogical deduction was permissible. If not, he would turn to *istiḥsān*. Whichever of these was more reliable he would have recourse to." This [man] Sahl said, "Abū Hanifah's knowledge was universal knowledge."

He also narrated from ʿAmr ibn Hārūn that Ibn Jurayj said, "Abū Ḥanīfah only gave *fatwā* on a matter from a decisive source and if we had wished we could quote that." In it he narrated with its chain of transmission from Wakīʿ, "I heard Abū Ḥanīfah saying, 'Urinating in the mosque is better than some analogical reasoning.'" Imām as-Sarkhī mentioned in the introduction to his *Mabṣūṭ*, "Ibn Surayj conveyed – and he was one of the foremost of ash-Shāfiʿī's companions – that a man attacked Abū Ḥanīfah and so he [Ibn Surayj] called him and said, 'Do you attack a man to whom all the Ummah surrenders three quarters of all knowledge and he does not surrender the other quarter to them?' He asked, 'How could that be?' He said, '*Fiqh* is questions and answers, and he is the one who uniquely defined the questions, thus we surrender to him one half of knowledge, and then he answered everything. Those who dispute with him do not say that he is mistaken in everything. So if you place that in which they agree with him opposite to that in which they differ with him [in two halves], then three quarters of knowledge is surrendered to him and there remains one quarter which is shared between him and the rest of people.’ So the man turned in repentance from what he had said.”

Al-Muwaffaq also mentioned this tale but in meaning, when he said, “It is narrated of Ibn Surayj that he heard a man from among his companions speaking against Abū Ḥanīfah …” then narrating the whole story in the same sense, but without mentioning that the man turned in repentance from what he had said. He narrated that Isrā’īl said, “How excellent a man was Nuʿmān. How excellently he memorised every hadith in which there was *fiqh* and how diligent was his investigation of them. So amirs and wazirs honoured him. When a man disputed with him over something, it would occupy his mind.” Musʿir used to say, “Whoever places Abū Ḥanīfah between himself and Allah I hope will not fear and he will not be excessive in taking precautions for himself.” He said, “Aṣ-Ṣaymarī added after his words, ‘and how diligent was his investigation of them,’ ‘and he was the one who was knowledgeable about them [hadith] concerning what *fiqh* there was in them. He had apprehended accurately from Ḥammād and how excellent was his accuracy.’”

In the *Manāqib* of al-Muwaffaq he related from Mālik ibn Sulaymān al-Harawī, “I heard Zuhayr ibn Muʿāwiyah saying, ‘I was with Abū Ḥanīfah when al-Abyaḍ ibn al-Aʿarr was comparing the analogies of an issue that they were passing back and forth between them, when a man from a corner of the mosque who I thought was of the people of Madīnah, cried out. He said, “What is all of this comparison of analogies? Leave them, because the first to reason analogically was Iblīs.” Abū Ḥanīfah turned to him and said, “You have said something out of place. Iblīs rejected the command of Allah, blessed is He and exalted: ‘“Prostrate yourselves to Adam,” and they prostrated with the exception of Iblīs. He was one of the jinn and wantonly deviated from his Lord’s command’ (Sūrat al-Kahf: 49). Whereas we look for the analogical resemblance between one case and another so that we can refer it to one of the sources: the Book, the Sunnah or the agreement of the Ummah in order to practise *ijtihād*. We are concerned with following, so what is the relationship between this and that?” The man cried out and said, “I turn in repentance from what I said, may Allah illuminate your heart as you have illuminated mine.”””

In the *Manāqib* he narrated from ʿAlī ibn al-Madīnī from ʿAbd ar-Razzāq, “I was with Maʿmar when Ibn al-Mubārak came to him and we heard Maʿmar saying, ‘I don’t know of a man who talks about *fiqh* and is capable of making analogies and deductions in *fiqh* more knowledgeable than Abū Ḥanīfah, nor more fearful than Abū Ḥanīfah that he might himself introduce something doubtful into the *dīn* of Allah.’”

In the *Manāqib* he narrated with its chain of transmission that Imām Mālik said, “How many verdicts has Abū Ḥanīfah delivered in Islam?” He said, “It is said that it is sixty thousand,” meaning cases.

* * *

And in this there is sufficient for seekers of guidance.

IMAM ABŪ ḤANĪFAH’S RANK AS A MUJTAHID

A necessary note for the person with insight is that to which al-Fāḍil an-Nuʿmānī drew attention in *Mā tamassu ilayhi al-ḥājah* in its commentary after transmitting the statement from *al-Inṣāf* in its entirety:

“As for that which occurs in *al-Inṣāf* after this in his own words, ‘Abū Ḥanīfah was the one who most clung to the *madhhab* of Ibrāhīm [an-Nakhaʿī] and his peers and he would not go beyond it except for whatever Allah willed. He considered it very important to derive matters from his *madhhab*, and was finely attuned in his vision of the ways of derivation, engaging in the secondary derivative rulings (*furūʿ*) in the best possible way. If you wish to know the reality of what we say then consider the statements of Ibrāhīm in *Kitāb al-Āthār* by Muḥammad, the *Jāmiʿ* of ʿAbd ar-Razzāq, the *Muṣannaf* of Ibn Abī Shaybah and then compare them with his *madhhab* and you will find that he only separates from this procedure in a very few places, and also does not depart from that verdict which the *fuqahā'* of Kūfa took.' This is what is in *al-Inṣāf*."

"These words are not appropriate for the high honour of the Imām. How could that be when in it there is the judgement against him that his position in *fiqh* was that of a follower, and that he brought nothing new except in derivation and the speed with which he could deduce derivative rulings, and that he is the follower of all the followers, the transmitter of all the transmissions from Ibrāhīm and his peers, not deviating from their views except in the cases where they had not practised *ijtihād*, and that if he did deviate from them then it was to statements [such as], 'So this is the knowledge of Kūfa' or to derive derivative rulings or make deductions from the verdicts of Ibrāhīm and his peers?

"This statement makes the Imām al-Aʿẓam a person who merely emulates in *taqlīd* or who is under the rule of someone who emulates in *taqlīd*, someone who is a follower. There is no doubt that in that judgement upon the rank of Abū Ḥanīfah, who is the Imām of the Imāms and who is followed by most of the Ummah, and upon whom all people are dependent for their *fiqh* as Imām ash-Shāfiʿī openly declared [there is a lack of recognition of his rank as a *mujtahid*][6]. As for what he said: 'If you wish to know the reality of what we say then consider the statements of Ibrāhīm in *Kitāb al-Āthār* by Muḥammad, the *Jāmiʿ* of ʿAbd ar-Razzāq…' this is his habit in his compilations, that when he makes a claim he makes a statement which perplexes the thinker, but we, may Allah be praised, have studied the *Kitāb al-Āthār*, and considered the statements of Ibrāhīm an-Nakhaʿī and compared them with the *madhhab* of the Imām. We find that the Imām practised *ijtihād* just as did an-Nakhaʿī and his peers, and you will see him in many places abandoning the views of Ibrāhīm even if it is undeniable that the views of Ibrāhīm an-Nakhaʿī have a special effect upon the *fiqh* of Imām Abū Ḥanīfah and in his *ijtihād*, just as the views of Saʿīd ibn al-Musayyab have a great effect upon the *fiqh* of Imām Mālik and on his *ijtihād*. We have compiled a volume in that respect which we have called *Mā khālafa fīhi Abū Ḥanīfah Ibrāhīm an-Nakhaʿī* (Those cases in which Abū Ḥanīfah differed from Ibrāhīm an-Nakhaʿī).

“How well Ustādh Abū Zahrah defended the Imām al-Aʿẓam on this point in his well known composition on Abū Ḥanīfah, and he was both beneficial and did it excellently. How could it be, when Ḥāfiẓ Yaḥyā ibn Maʿīn, who was expert in criticism of narrators, narrated from Abū Ḥanīfah the following text, ‘As for when the matter reaches only as far as Ibrāhīm, ash-Shaʿbī, al-Ḥasan and ʿAṭā’ then I practise *ijtihād* just as they have done’? This is just as we have previously transmitted it and here are some extra supporting evidentiary proofs for what we say.

“1. Al-Khaṭīb narrated in his *Tārīkh Baghdād* with its continuous chain of transmission that Abū ʿAnān said, ‘I heard Isrā’īl saying, “How excellent a man Nuʿmān was! How well he had memorised every hadith in which there was *fiqh* and how thoroughly he searched them out, and how knowledgeable he was of that *fiqh* which was in them! He had apprehended accurately from Ḥammād and how excellent was his accuracy.” This Isrā’īl was Ibn Abī Isḥāq as-Sabīʿī the Imām, the Ḥāfiẓ Abū Yūsuf, the Kūfan. He was a Ḥāfiẓ, a proof, right-acting, humble and one of the vessels of knowledge, as adh-Dhahabī said in *at-Tadhkirah*.’

“2. Al-Khaṭīb also narrated that Bishr ibn al-Walīd said, ‘I heard Abū Yūsuf say, “I have not seen anyone more knowledgeable of the explanations of hadith and of the places where there are points in which there is *fiqh* than Abū Ḥanīfah.”’ (*Tārīkh Baghdād*)

“3. He also narrated that Muḥammad ibn Samāʿah said, ‘I heard Abū Yūsuf saying, “I never differed from Abū Ḥanīfah but that I saw the route (*madhhab*) which he had taken to be more sure of deliverance in the next life [*ākhirah*], and that perhaps I had inclined to hadith but he was the one who had the eye for the *ṣaḥīḥ* hadith.” Abū Yūsuf is the imam about whom Imām Aḥmad ibn Ḥanbal said, “He was one of the most clear-sighted people concerning traditions,” as as-Samʿānī narrated in *al-Ansāb*, and which Shaykh ʿAbd al-Ḥayy al-Laknawī transmitted in *at-Taʿlīq al-mumajjad*.’

“4. Imām aṣ-Ṣaymarī narrated in *Manāqib al-Imām Abī Ḥanīfah* with a continuous chain of transmission that ʿAlī ibn Ṣāliḥ said, ‘Abū Ḥanīfah was strenuous in investigating the abrogating and abrogated hadith. He would act by a hadith if it was firmly established in his view that it was from the Prophet ﷺ and his Companions. He was knowledgeable of the hadith of the people of Kūfa, very serious about following that which was the practice of the people of his city.’ He said, ‘He used to say, “The Book of Allah has abrogating and abrogated, and the hadith has abrogating and abrogated,” and he had memorised the very last practice of the Messenger of Allah ﷺ from the time of his death, that of it which had reached the people of his city.’ This book has a copy of its introduction, which is kept safely in the library of the Majlis al-ʿIlmī in Karachi. (The shaykh of hadith Muḥammad Yūsuf al-Binnūrī brought it from Egypt because of the suggestion of Ustādh Muḥammad Zāhid al-Kawtharī, may Allah illuminate his grave.) This ʿAlī ibn Ṣāliḥ is the famous hadith scholar who was brother of Imām al-Ḥasan ibn Ṣāliḥ ibn Ḥayy.

“5. Al-Khaṭīb narrated with its chain of transmission that Ibn al-Mubārak said, ‘If tradition is recognised and there is a need of a theoretical understanding (*ra’y*) then it must be the theoretical understanding of Mālik, Sufyān, and Abū Ḥanīfah, and Abū Ḥanīfah is the best of them, with the most exact intellect; he is the most resolute (*aʿzamuhum*) of them in *fiqh*, and of the three he was the one with the most *fiqh*.’

“6. Ṣadr al-A’immah al-Makkī narrated in *Manāqib al-Imām al-Aʿẓam* with its chain of transmission that the Imām and Ḥāfiẓ ʿAbdullāh ibn Dāwūd al-Khuraybī said, ‘Abū Ḥanīfah, by Allah! was of the most use to the Muslims.’

“7. Al-Khaṭīb narrated with its chain of transmission that Abū Ḥanīfah said, ‘I went to see Abū Jaʿfar the Amīr al-Mu’minin, and he said to me, “Abū Ḥanīfah, from whom did you take knowledge?” I said, “From Ḥammād [who took] from Ibrāhīm [who took] from the companions of ʿUmar ibn al-Khaṭṭāb, ʿAlī ibn Abī Ṭālib, ʿAbdullāh ibn Masʿūd and ʿAbdullāh ibn ʿAbbās"' (*Tārīkh Baghdād*)(The end of an-Nuʿmānī's words)

MORE ON THE BIOGRAPHY OF IMAM ABŪ ḤANĪFAH

Here I will mention some more about Imām Abū Ḥanīfah, reiterating a measure of it for extra insight. I repeat the mention of Nuʿmān for us because his remembrance is musk that I repeat. The remembrance of the Imām al-Aʿẓam is luminous: the *faqīh* of the religion, the majestic Follower who saw Anas ibn Mālik more than once. (*Tadhkirat al-ḥuffāẓ*). Ibn Saʿd said, "He was a trustworthy narrator" (*Tahdhīb* of the Ḥāfiẓ, *Tadhkirat al-ḥuffāẓ*). Check the words of Sufyān ath-Thawrī in *Khayrāt al-ḥisān*, "And he was an imam," as Abū Dāwūd the author of as-*Sunan* said.

THE LINEAGE OF ABŪ HANĪFAH

Abū Ḥanīfah Nuʿmān ibn Thābit ibn Nuʿmān ibn al-Marzubān ibn Zūṭā ibn Māh, one of the people of Persia, in lineage, and at-Taymī – Taymu'llāh ibn Thaʿlabah – by relationship of *walā'* (clientage). Aṣ-Ṣaymarī and al-Khaṭīb narrated from Ismāʿīl ibn Ḥammād ibn Abī Ḥanīfah saying, "Ismāʿīl ibn Ḥammād ibn an-Nuʿmān ibn Thābit ibn an-Nuʿmān ibn al-Marzubān informed us, 'He [al-Marzubān] was one of the free people of Persia, and by Allah, slavery has never happened to us. My grandfather was born in 80 AH and Thābit went to ʿAlī ibn Abī Ṭālib when he was young and he supplicated for blessings upon him and for his descendants, and we hope from Allah that He has already answered that supplication of ʿAlī ibn Abī Ṭālib for us.' He said, 'An-Nuʿmān ibn al-Mīrzabān the father of Thābit was the one who gave the gift to ʿAlī ibn Abī Ṭālib, may Allah ennoble his face, of some *falūdhāj* [a sweet made of flour and honey] on the day of al-Yazār [a Persian festival] and he said, "Our

Nawrūz [Persian New Year's Day] is every day." Some say that that was a festive celebration and that he said, "Our festivities are every day."'" The *walā'*[7] relationship of Abū Ḥanīfah to Taymu'llāh ibn Thaʿlabah was the *walā'* of clientage [not that of being freed slaves].

How is that when aṭ-Ṭaḥāwī said in *Mushkil al-āthār*, "Abū ʿAbd ar-Raḥmān al-Muqrī said, 'I went to Abū Ḥanīfah and he said to me, "Who is the man?" And I said, "A man upon whom Allah graciously bestowed Islam." He said, "Do not say so; become an ally (*mawlā*) of one of these tribes and then you will be attributed to them"'"? Aṭ-Ṭaḥāwī narrated from Muḥammad ibn Jaʿfar ibn Muḥammad ibn Aʿyun that he said, "I heard Aḥmad ibn Manṣūr ar-Ramādī saying, 'I heard al-Muqrī saying…' and then he mentioned the text."

He was born in 61 AH according to that which Ibn Zadād mentioned, but in *al-Ansāb* by as-Samʿānī concerning al-Khazzāz[8] [it is said] that it was in 70 AH, and it is similarly said in *al-Jarḥ wa't-taʿdīl* by Ibn Ḥibbān, and again in *Rawḍat al-quḍāh* by Abu'l-Qāsim as-Samʿānī the contemporary of al-Khaṭīb al-Baghdādī. Some have said that it was in 80 AH and most historians choose this date since it is the most recent of the differing dates, in this basing themselves on circumspection and caution. However, the former is supported by the fact that Ḥāfiẓ Muḥammad ibn Makhlad al-ʿAṭṭār counted the narration of Ḥammād ibn Abī Ḥanīfah from Mālik as the narration of an older man from a younger.[9]

ABŪ ḤANĪFAH WAS ONE OF THE FOLLOWERS

He was one of the Followers because it is authentically established that he saw Anas ibn Mālik when he came to Kūfa, and that similarly he also saw other Companions, just as Ibn ʿAbd al-Barr affirmed his narration from Ibn Jaz' az-Zubaydī (a Companion) in *Bayān jāmiʿ al-ʿilm wa faḍlih*. Hadith scholars have written volumes in which they confirm his narration from some of the Companions of the Messenger of Allah ﷺ and this cannot be authentically established except by his having been born in 61 AH. I have a treatise on that, *Firāsah al-ʿarīf fī radd qawl Muḥammad Sharīf*, in which I have gathered together those of the Companions who were alive from his birth up to his death, and it is in print, so have recourse to it. I have mentioned a portion of it in *Kashf al-ghummah ʿan sirāj al-Ummah* and in *aṣ-Ṣārim al-maslūl fi'dh-dhabb ʿan al-uṣūl*.

HIS NARRATION OF HADITH IN THE KITĀB AL-ĀTHĀR AND ELSEWHERE

He is the author of *Kitāb al-Āthār* which Muḥammad ibn al-Ḥasan, Abū Yūsuf, Zufar, al-Ḥasan ibn Ziyād, Ḥammād ibn Abī Ḥanīfah, Wakīʿ ibn al-Jarrāḥ, ʿAbdullāh ibn al-Mubārak, Ḥafṣ ibn al-Ghiyāth, al-Muqrī, Ḥammād ibn Zayd, Khālid al-Wāsiṭī, ʿAbd al-ʿAzīz ibn Khālid aṣ-Ṣanʿānī and many others narrated, their number exceeding five hundred. Ḥāfiẓ [Ibn Ḥajar] said in *Taʿjīl al-manfaʿah*, "What exists of the hadith of Abū Ḥanīfah in a single collection of hadith is only *Kitāb al-Āthār*, which Muḥammad ibn al-Ḥasan narrated from him. Among the compilations of Muḥammad ibn al-Ḥasan and in those of Abū Yūsuf before him there exist other hadith of Abū Ḥanīfah."

Check *Kitāb ikhtilāf Abī Ḥanīfah wa Ibn Abī Laylā, Kitāb ar-radd ʿalā siyar al-Awzāʿī, Kitāb al-kharāj, Āthār Imām Abī Yūsuf*, the *Muwaṭṭa'* of Muḥammad ibn al-Ḥasan, and his *Kitāb al-ḥujjah* in which there are other hadith of Abū Ḥanīfah, and similarly in *Jāmiʿ al-masānīd, ʿUqūd al-jawāhir al-munīfah, Tadhkirat al-ḥuffāẓ, al-Muʿjam aṣ-ṣaghīr* by aṭ-Ṭabarānī, the *Sunan* of ad-Dāraquṭnī, the *Mustadrak* of al-Ḥākim, the *Musnads* of Abū Dāwūd aṭ-Ṭayālisī, an-Nasā'ī, and at-Tirmidhī, just as there are in at-*Tahdhīb* other hadith of his. I have compiled a volume about that in which I have chosen as much as was easy for me of his narrations from the aforementioned books and from elsewhere.

THE DESCRIPTION OF ABŪ ḤANĪFAH

Abū Nuʿaym al-Faḍl ibn Dukayn, "Abū Ḥanīfah was good looking in his face and beard, and he was well dressed." Al-Khaṭīb narrated that Abū Yūsuf said, "Abū Ḥanīfah was a man of medium stature, neither tall nor short, and he was one of the best of people in appearance, the most eloquent of them in speech, the most perfect of them in citation, the highest of them in tone, and the clearest of them about what he intended.” He narrated also that al-Faḍl ibn Dukayn said, “Abū Ḥanīfah was good looking in his face and beard, well dressed, well shod, sweet-scented, and his gatherings were distinguished by awe and respect.” He also narrated that Jaʿfar ibn Isḥāq ibn ʿUmar ibn Ḥammād ibn Abī Ḥanīfah said, “Abū Ḥanīfah was extremely tall, with a hint of brown over him.”

The noted scholar aṣ-Ṣāliḥī said, and Qāḍī Abu’l-Qāsim ibn Kās narrated of Ḥammād ibn Abī Ḥanīfah that his father was handsome, with a hint of brown over him, of a goodly form, full of respectful awe. He would not speak unless in answer [to a question], and he would not plunge into that which did not concern him nor would he listen to it.

Aṣ-Ṣaymarī narrated the like of it. ʿAbd al-Wahhāb said, “I saw Abū Ḥanīfah wearing a black tether.” The Egyptian Qāḍī Abu’l-Qāsim ʿAbdullāh ibn Muḥammad ibn Aḥmad ibn Yaḥyā ibn al-Ḥārith ibn Abi’l-ʿAwwām as-Saʿdī narrated in *Faḍā’il Abī Ḥanīfah wa aṣḥābih* with its chain of transmission from Abū Ghassān Ayyūb ibn Yūnus that he had heard an-Naḍr ibn Muḥammad saying, “Abū Ḥanīfah was good looking, was dressed in a distinguished fashion and perfumed. I went to see him because of a pressing need and prayed the morning-prayer with him and I was wearing a crimson[10] wrap. He ordered his mule to be saddled and said, ‘Give me your wrap so that I can ride in pursuit of your pressing need, and here is my wrap until I return.’ So I did that and when he returned he said, ‘Naḍr, you have shamed me with your wrap.’ I said, ‘What didn’t you like about it?’ He said, ‘It is rough.’” He [an-Naḍr] said, “I had bought it for five dīnārs and I was delighted with it. Then later I saw him wearing a crimson wrap whose value was thirty dīnārs.”

HIS CONCERN FOR KNOWLEDGE AND SEEKING HADITH AND HIS SURPASSING HIS PEERS IN THAT RESPECT

Ḥāfiẓ adh-Dhahabī narrated in *Manāqib Abī Ḥanīfah* that Misʿar ibn Kidām said, “Along with Abū Ḥanīfah I sought out hadith, but he beat us. So we took doing without (*zuhd*) upon ourselves and he excelled us. Then we sought *fiqh* along with him, but he produced what you already know.” This Misʿar is the Imām and Ḥāfiẓ Abū Salamah the Kūfan, one of the noted scholars and the resort and recourse of the imams. Ḥāfiẓ Abū Muḥammad al-Ḥasan ibn Khallād ar-Rāmhurmūzī narrated concerning the eminent hadith scholar, “[that] he is between a narrator and a memoriser” as is in *Mā tamassu ilayhi al-ḥājah*, “ʿAbdullāh ibn Aḥmad al-Ghazā narrated to us saying, ‘I heard Ibrāhīm ibn Saʿīd al-Jawharī saying, “When Shuʿbah and Sufyān differed they would say, ‘Let us go to the weighing scales, Misʿar.’”’” So, an Imām such as this witnesses that Abū Ḥanīfah beat him in seeking out hadith, and both Shuʿbah and Sufyān have been called “The ‘Amīr al-mu’minīn’ in hadith”, then what do you think of Abū Ḥanīfah when their weighing scales, Misʿar, openly acknowledges him?

The teacher of Qur’ān recitation, Imām and hadith scholar, Shaykh al-Islām Abū ʿAbd ar-Raḥmān ʿAbdullāh ibn Yazīd the Kūfan did well in that, when narrating hadith from Abū Ḥanīfah, he would say, “Shāhan Shāh (the King of Kings) narrated to us.” Al-Khaṭīb the Ḥāfiẓ – and his extreme partisan opposition to Abū Ḥanīfah is well known – narrated: Abu’l-Bishr al-Wakīl and Abu’l-Fatḥ aḍ-Ḍabbī informed me saying: ʿUmar ibn Aḥmad al-Wāʿiẓ narrated to us: Muḥammad ibn Makhzūm narrated to us: Bishr ibn Mūsā narrated to us: Abū ʿAbd ar-Raḥmān al-Muqrī narrated to us, and when narrating hadith from Abū Ḥanīfah he would say, “Shāhan Shāh narrated to us.”

Ḥāfiẓ as-Samʿānī said in *al-Ansāb*, “He was busy seeking knowledge and went to such great lengths in it that he obtained what others did not obtain. One day he went to see [the khalīfah] al-Manṣūr and ʿĪsā ibn Mūsā was with him. Al-Manṣūr said, ‘This is the man of knowledge of the world today.’ Abū Ḥanīfah saw in a dream that he was uncovering the grave of the Prophet ﷺ. Someone mentioned it to Muḥammad ibn Sīrīn and he said, ‘The person who had this dream will rise up with a knowledge to which no one before him will have preceded him.’ Ḥāfiẓ Abū Aḥmad al-ʿAskarī narrated with its chain of transmission that Makkī ibn Ibrāhīm the Ḥāfiẓ, Imām and Shaykh of Khurāsān said, ‘Abū Ḥanīfah wa abstinent, he was a man of knowledge who longed for the next life, who was utterly truthful in his language, and the one who memorised the most of the people of his age.’ The Imām of the science of criticism of narrators (*al-jarḥ wa’t-taʿdīl*) Yaḥyā ibn Saʿīd al-Qaṭṭān said, ‘He is, by Allah! the most knowledgeable of this community of that which has come from Allah and His Messenger.’” Imām Masʿūd ibn Shaybah as-Sindī mentioned it in the introduction to *Kitāb at-taʿlīm* transmitting it from the book of Imām aṭ-Ṭaḥāwī in which he compiled the reports of our Ḥanafī people.

Moreover, al-Fāḍil an-Nuʿmāni said, “Along with this abundant knowledge, much memorisation and far-reaching research, he spent twenty years in reflection, applying cases (*yaḍribu al-amthāl*), classifying the statements of each of the Companions according to the existing principles (*uṣūl*)” as Imām Ḥāfiẓ Yaḥyā ibn Zakariyyā ibn Abī Zā’idah narrated from him, which Ḥāfiẓ ad-Daylamī mentioned.

Then he composed his *Kitāb al-Āthār* which those of his pupils who were major imams narrated from him, such as Zufar, Abū Yūsuf, Muḥammad ibn al-Ḥasan, al-Ḥasan ibn Ziyād and others of the hadith scholars and *fuqahā’*. Ṣadr al-A’immah al-Makkī said, “Abū Ḥanīfah رضي الله عنه chose *al-Āthār* from forty thousand hadith.”

Imām Ḥāfiẓ Abū Yaḥyā Zakariyyā ibn Yaḥyā an-Naysābūrī mentioned in his *Kitāb manāqib Abī Ḥanīfah* with its chain of transmission that Yaḥyā ibn Naṣr ibn Ḥājib said, “I heard Abū Ḥanīfah رضي الله عنه saying, ‘I have boxes full of hadith from which I have only transmitted the very small amount that is of use.” The Imām of Lordly knowledge Sayyidī ʿAbd al-Wahhāb ash-Shaʿrānī said in his *Mīzān*, “Imām Abū Ḥanīfah stipulated that before hadith transmitted from the Messenger of Allah ﷺ could be acted upon a body of people with *taqwā* should have transmitted them from that Companion narrating from the likes of them.” The Imām who was supreme in critical understanding of hadith and of their chains of transmission, Yaḥyā ibn Maʿīn, said something similar.

Ḥāfiẓ Abū Bishr ad-Dūlābī mentioned, "Muḥammad ibn Ḥammād ibn al-Mubārak al-Hāshimī narrated to us saying, "ʿAlī ibn al-Ḥasan ibn ʿAlī ibn Shaqīq Abu'l-Ḥasan al-Marwazī narrated to us saying, "I heard Abū Bakr mentioning that Ibn al-Mubārak said, 'I heard Sufyān ath-Thawrī saying, "Abū Ḥanīfah took hold of knowledge strongly, defending the forbidden things of Allah lest they be considered *ḥalāl,* basing himself upon those hadith he had that were *ṣaḥīḥ* which trustworthy narrators had conveyed, and upon the last of that which the Messenger of Allah ﷺ had done, and of that which he had come upon the Kūfan people of knowledge doing. Then later some people abused him, may Allah forgive us and them."'""

HIS EXTREME CAUTION IN NARRATING AND DRAWING UPON ONLY ṢAḤĪḤ HADITH

In summary, Imām Abū Ḥanīfah ؒ only accepted *ṣaḥīḥ* traditions that had been transmitted by trustworthy narrators from trustworthy narrators. One of his preconditions ؓ on traditions from just and dependable individual narrators was that he would not accept those of them which contradicted principles of *fiqh* on which there was a consensus, as Ibn ʿAbbās and other *fuqahā'* from among the Companions would also not do, as we have seen previously. The Imām and Ḥāfiẓ Abū ʿUmar Yūsuf ibn ʿAbd al-Barr an-Namarī al-Qurṭubī said in *al-Intiqā' fī faḍā'il ath-thalāthah al-fuqahā'*, "Many of the people of hadith regarded it permissible to cast critical aspersions on Abū Ḥanīfah since he rejected many traditions from just and reliable individual narrators because he had compared them with those hadith and meanings of the Qur'ān upon which there was consensus, and then rejected whatever was anomalous (*shādhdh*) of that and termed it 'anomalous'."

One of his preconditions ؒ was also that which al-Ḥākim an-Naysābūrī narrated in *al-Madkhal fī uṣūl al-hadith* saying, "Abū

Aḥmad Muḥammad ibn Aḥmad ibn Shuʿayb al-ʿAdl narrated to us, ‘Asad ibn Nūḥ the *faqīh* narrated to us, “Abū ʿAbdullāh Muḥammad ibn Maslamah narrated to us from Bishr ibn al-Walīd from Abū Yūsuf that Abū Ḥanīfah said, ‘It is not permissible for a man to narrate a hadith unless he hears it from the mouth of the hadith narrator, memorises it and then later narrates it.’””

Al-Khaṭīb al-Baghdādī narrated in *al-Kifāyah* with its chain of transmission that Yaḥyā ibn Maʿīn was asked about a man who found a hadith written out but does not memorise it, so Abū Zakariyyā said, “Abū Ḥanīfah used to say, ‘He must not narrate anything but that which he has knowledge of and memorises.’”

Moreover al-Fāḍil an-Nuʿmāni said, “The pure truth is that *Kitāb al-Āthār* is the collection of a tremendous Imām whose knowledge has spread and is universal in the east and the west, and whom half of the people of the world follow. He compiled it after taking hadith from the best of the Followers who were just, reliable and trustworthy narrators, and who were of the best generations according to the testimony of the Messenger of Allah ﷺ, such as Ḥammād ibn Abī Sulaymān the companion of Ibrāhīm an-Nakhaʿī, ʿAṭā’ ibn Abī Rabāḥ, ʿAbd ar-Raḥmān ibn Hurmuz al-Aʿraj, ʿIkrimah, Nāfiʿ, ʿAdī ibn Thābit, ʿAmr ibn Dīnār, Salamah ibn Kuhayl, Qatādah ibn Diʿāmah, Abu’z-Zubayr, Manṣūr, Abū Jaʿfar Muḥammad ibn ʿAlī al-Bāqir, Muḥammad ibn Shihāb az-Zuhrī, Muḥammad ibn al-Munkadir, Mūsā ibn Abī ʿĀ’ishah, Hishām ibn ʿUrwah, Yaḥyā ibn Saʿīd al-Anṣārī, ʿĀmir ash-Shaʿbī (Adh-Dhahabī said, ‘He was the greatest shaykh of Abū Ḥanīfah’), al-Ḥasan al-Baṣrī, Abū Isḥāq as-Sabīʿī and a very large number of the shaykhs of ʿIrāq, Ḥijāz and Shām. After he had spent twenty years selecting hadith and traditions and comparing those of them narrated by solitary individuals with the meanings of the Book of Allah and with that upon which the community agree unanimously, then he selected a book from forty thousand hadith and published it among people for their benefit.”

What a tremendous aspiration, what steadfastness, what scrupulousness and what fear of Allah, exalted is He, and what fulfilment of the trust involved in knowledge, that a man should listen to hadith and diligently seek them out so much so that great imams like Misʿar the Imām and Ḥāfiẓ should voluntarily concede his pre-eminence! Then that he should be carefully heedful of what he had heard and memorise it and then later expend this tremendous effort in compiling a book comprised of narrations from pure sources. So Allah provided him with acceptance, and the brilliant and exceptional *ḥāfiẓs* of the imams of hadith bore witness to his scrupulousness with respect to hadith, his *taqwā* in narration and his trustworthiness in transmission.

Ḥāfiẓ Abū Muḥammad al-Ḥārithī narrated, "Al-Qāsim ibn ʿAbbād informed us, 'I heard Yūsuf aṣ-Ṣaqā saying, "I heard Wakīʿ saying, 'Scrupulousness such as is not to be found in others is to be found in Abū Ḥanīfah with respect to hadith.'"'" This Wakīʿ was the firmly established Imām and Ḥāfiẓ about whom Imām Aḥmad ibn Ḥanbal said, "I have not seen anyone more heedfully careful of knowledge nor with a better memory than Wakīʿ." Yaḥyā ibn Maʿīn said, "I have never seen anyone better than him."

Imām al-Ḥārithī also said, "Al-Qāsim ibn ʿAbbād said, 'ʿAlī ibn a-Jaʿd said, "When Abū Ḥanīfah produced hadith, he produced them like pearls."'" This ʿAlī ibn al-Jaʿd is the firmly established Imām and Ḥāfiẓ, the support, the Shaykh of Baghdād Abu'l-Ḥasan al-Jawāhirī, the Shaykh of al-Bukhārī, Abū Zurʿah and Abū Ḥātim. ʿAbdūs an-Naysābūrī said, "I don't know if I have seen anyone with a better memory than ʿAlī ibn al-Jaʿd." Mūsā ibn Dāwūd said the same about him, as adh-Dhahabī transmitted in *Tadhkirat al-ḥuffāẓ*.

Al-Khaṭīb narrated in *Tārīkh Baghdād* with its uninterrupted chain of transmission, that the Ḥāfiẓ with the critical faculty Yaḥyā ibn Maʿīn said, "Abū Ḥanīfah was a trustworthy narrator who would only narrate what he had memorised and who would not narrate what he had not memorised." Imām Abū Dāwūd, the author of the *Sunan*, said, "May Allah be merciful to Abū Ḥanīfah for he was an Imām." Ibn ʿAbd al-Barr narrated it in *al-Intiqā'*.

On this basis then, the *Kitāb al-Āthār* is the first compilation of *ṣaḥīḥ* hadith, in which the Imām al-Aʿẓam collected the authentic transmissions of the Sunnah and mixed them with the sayings of the Companions and the Followers. It is the first book in which the hadith are recorded according to the well-known *fiqh* arrangement. Imām Mālik later followed a similar arrangement in the *Muwaṭṭa'*, Sufyān ath-Thawrī in his *Jāmiʿ*, and upon it [*Kitāb al-Āthār*] and upon the two of them [*al-Muwaṭṭa'* and *al-Jāmiʿ*] everyone who came after them who wished to aspire to the *ṣaḥīḥ* and to collect the Sunnahs built their works. Imām as-Suyūṭī said in *Tabyīḍ aṣ-ṣaḥīfah fī manāqib Abī Ḥanīfah*, "One of the outstanding merits of Abū Ḥanīfah that were uniquely his was that he was the first to record the knowledge of the sharīʿah and to arrange it systematically. Then later Mālik ibn Anas followed it [the systematic arrangement] in the structure of the *Muwaṭṭa'* but no one preceded Abū Ḥanīfah."

Imām Masʿūd ibn Shaybah as-Sindī said in *Kitāb at-taʿlīm*, transmitting from aṭ-Ṭaḥāwī's book in which he collected traditions concerning our Ḥanafī scholars, narrating from Yazīd ibn Hārūn in a long passage, "Sufyān ath-Thawrī used to take *fiqh* from ʿAlī ibn Mahr from the sayings of Abū Ḥanīfah, and he used to seek help from him and hold consultation with him for his book which he called al-*Jāmiʿ*." Imām aṣ-Ṣaymarī said, "One of Abū Ḥanīfah's companions was ʿAlī ibn Mahr from whom Sufyān ath-Thawrī took the knowledge of Abū Ḥanīfah and from whom he transcribed his writings." Ḥāfiẓ ʿAbd al-Qādir al-Qurashī mentioned in *al-Jawāhir al-munīfah* in his biographical notice on ʿAlī ibn Mahr, "This ʿAlī ibn Mahr is the Imām and Ḥāfiẓ Abu'l-Ḥasan al-Qurashī – he was their (Quraysh) *mawlā* – the Kūfan." Aḥmad al-ʿIjlī said, "He was one of those who united *fiqh* and hadith and he was a trustworthy narrator," as is mentioned in *Tadhkirat al-ḥuffāẓ* by adh-Dhahabī. (*Mā tamassu ilayhi al-ḥājah*).

Then al-Fāḍil an-Nuʿmāni said after transmitting the just statement of the hadith scholar Shāh Walī Allāh ad-Dihlawī, "I say that Abū Ḥanīfah the Imām رحمه الله was thus the one of them who best remembered hadith in which there was *fiqh*, and the one of them who most strenuously searched them out, the most knowledgeable of them in explanation of hadith and of the places in them in which there are points of *fiqh*. He was the most insightful of them in distinguishing *ṣaḥīḥ* hadith from defective ones, and the most cognisant of them in recognising those that abrogate and those that are abrogated. He was the most intelligent of them and most detailed in his understanding, and the most discerning of all of them in terms of *fiqh* of the *dīn* of Allah. He was the one with the most benefit for the Muslims. He was the most knowledgeable of them of the judgements and rulings of ʿUmar and ʿAlī, and the sayings of ʿAbdullāh ibn Masʿūd, Ibn ʿAbbās, ʿAbdullāh ibn ʿUmar, ʿĀ'ishah and other Companions and their own companions from the *fuqahā'* of the Followers such as ʿAlqamah, al-Aswad ibn Yazīd, ʿAmr ibn Shuraḥbīl ibn Maysarah, ʿUbaydah as-Salmānī, Shurayḥ, Masrūq ibn al-Ajdaʿ, ʿAbdullāh ibn ʿUtbah and then after them ʿĀmir ash-Shaʿbī and Ibrāhīm an-Nakhaʿī, and then after these two al-Ḥakam and Ḥammād ibn Abī Sulaymān. By him and his likes, the sciences of narration and of *fatwā* were established. So when the matter was spread before him, and he narrated hadith and delivered *fatwā*, he proved useful and beneficial and he did excellently well. To him is applied the saying of the Prophet ﷺ, 'Even if the *dīn* were in the Pleiades, a man from the Persians would have gone off with it,' or he said, '... from the sons of the Persians until he could comprehend it,' according to what the imams have said, among them as-Suyūṭī and his fellow Muḥammad ash-Shāmī the author of *as-Sīrah ash-shāmiyyah,* and how excellent are the two of them! Then his companions collected together his narrations and his selections and they summarised them, and recorded them, wrote commentaries on them, made deductions on the basis of them, spoke about the fundamental principles in them and their proofs, and then they separated, going to the east and west and all over the world, and Allah brought benefit to many of His creatures by them. If you wish to know the reality of what we have said then study *Kitāb al-Āthār* and its manuscript copies and you will find it to be as we have said." (*Mā tamassu ilayhi al-ḥājah*).

REFUTATION OF SOME MISUNDERSTANDINGS ABOUT IMAM ABŪ ḤANĪFAH

The Imām collected traditions in *Kitāb al-Āthār* organised in chapters, most of them being *mawqūf* traditions [stopping short at the] Companions and the Followers [without being ascribed to the Prophet ﷺ]. It has three hundred and fifty chapters comprising issues on which the people of knowledge differ and *fiqh* issues of derivative rulings (*furūʿ*) clearly deduced from *marfūʿ* hadith [ascribed directly to the Prophet ﷺ] or the Companions or the major Followers, as you will see in the appropriate places.

The Imām did not arrange it structurally in books such as the Book of Purification, the Book of the Prayer, the Book of Zakāt and the Book of Fasting, for example, but rather in chapters from beginning to end, except for in one place in the Rites that he termed the Book of Rites, in which he included chapters connected to the rites and judgements relating to the Ḥajj. It may well be that this is from those who transcribed the book and not from the Imām according to his ordinary custom in the book.

In it there are one hundred and twenty-two hadith and traditions that are *marfūʿ* [ascribed to the Prophet ﷺ] as well as hadith narrated without any chain of transmission and prefaced with the words, "It has reached me…" (*balāghāt*), and hadith in which one of the Followers or Followers of the Followers ascribed something to the Prophet ﷺ without mentioning the Companion who had transmitted it (*mursal*). The rest are traditions that stop short at the Companions and the major Followers (*mawqūf*).

In it there is also clear refutation of what those insignificant rigid literalists who deny *taqlīd* say, i.e. that Abū Ḥanīfah only knew seventeen hadith. This number is already in the *Kitāb al-Āthār* let alone what there are in the *Muwaṭṭa'* [of Imām Muḥammad], *Kitāb al-ḥujjah,* Abū Yusuf's books on traditions and *Ikhtilāf Abī Ḥanīfah wa Ibn Abī Laylā* and the book *ar-Radd ʿalā siyar al-Awzāʿī*, his *Kitāb al-kharāj,* and the *ʿUqūd al-jawāhir, Jāmiʿ al-masānīd* and other books of hadith.

THE DEATH OF IMAM ABŪ ḤANĪFAH

In the *Manāqib* al-Muwaffaq related with its chain of transmission that Muḥammad ibn an-Naṣr said, “I heard Ismāʿīl ibn Sālim al-Baghdādī saying, ‘Abū Ḥanīfah was beaten to take on the position of *qāḍī* and he would not accept the postition.’ He said, ‘When that was mentioned to Aḥmad ibn Ḥanbal he wept and prayed for mercy for Abū Ḥanīfah, and that was after he himself had been beaten.’”

The original story I have is that the offer of the position of *qāḍī* was itself a trick in order to kill him. Rather, the imprisonment, beating, poisoning and other things were done because he spoke openly and boldly during the period of Ibrāhīm ibn ʿAbdullāh ibn Ḥasan[11] against Abū Jaʿfar al-Manṣūr and because of his assisting Ibrāhīm ibn ʿAbdullāh both secretly and openly. If it was not that, then refusal of the position of *qāḍī* is not a crime, wrong action or act of disobedience for which a man must be imprisoned, flogged ten times every day until he dies because he is forcefully fed poison. This is the connection to the insurrection [*bughawah*], and the offer of the position of *qāḍī* was a trick in order to do it.

He related from Ismāʿīl ibn Abī Uways, “I heard ar-Rabīʿ ibn Yūnus saying, ‘I saw the Amīr al-Mu’minīn, al-Manṣūr, clashing with Abū Ḥanīfah over the matter of the post of *qāḍī,* and he was saying, “Have *taqwā* of Allah, and let no one tend this matter entrusted to you except those who fear Allah. By Allah! I am not safe from anger. Even if I direct the judgement against you and then you give directions to drown me in the Euphrates if I do not give up the judgement, I would choose to be drowned, and you have an entourage who needs someone who will disown them.” He said to him, “You lie! You are worthy of the post.” He said, “You have judged in my favour, for how can it be permissible for you to appoint a *qāḍī* who is a liar over that which is entrusted to you?”’”

He related from Aḥmad ibn Muḥammad ibn Rizq that: Ismāʿīl ibn ʿAlī informed us, from Muḥammad ibn ʿUthmān who informed us, from Naṣr ibn ʿAbd ar-Raḥmān who informed us, from al-Faḍl ibn Dukayn who narrated to me that, “Zufar narrated to me saying: Abū Ḥanīfah spoke openly and boldly during the period of Ibrāhīm, so I said to him, ‘By Allah! You will not *bimittah* [meaning unclear] until ropes are placed upon our necks.’” He said, “It wasn’t long before the letter of Manṣūr came to ʿĪsā ibn Mūsā, ‘Bring Abū Ḥanīfah [to me].’” He said, “So I went to him in the morning and his face was as if it were polished clean.” He said, “They brought him to Baghdād and he lived for fifteen days and then they gave him poison to drink and he died ﵀.”

I have heard the following account in the *Manāqib* of aṣ-Ṣaymarī, but longer than the one above, in narration from Muḥammad ibn ʿImrān from al-Ḥasan ibn Muḥammad from this Muḥammad ibn ʿUthmān, and he said, “I went in the morning wanting to see Abū Ḥanīfah and met him mounted intending to go and take leave of ʿĪsā, and his face had darkened from fear. He went to Baghdād and died there and he was seventy years old. Abū Nuʿaym said, “And I have been informed that when he was with al-Manṣūr he [al-Manṣūr] called for some *sawīq*[12] for him and told him to drink it, but he refused. He said, ‘You will drink it!’ But he refused, and so he forced him until he drank it and then he stood up. Abū Jaʿfar [al-Manṣūr] said, ‘Where are you going?’ He said, ‘Wherever you send me.’ He was taken to the prison and died there in prison ﵀.”

He related that ʿAbd ar-Raḥmān ibn Mālik ibn Mighwal said, “Abū Jaʿfar al-Manṣūr ad-Dawāniqī[13], sent Abū Ḥanīfah to Baghdād and demanded of him that he accept the post of *qāḍī*, and that he would appoint *qāḍīs* under his control to all the districts of Islam, but he made reasonable excuses and would not accept. Abū Jaʿfar made a forceful and weighty oath that if he did not accept he would imprison him and they would treat him harshly, but Abū Ḥanīfah refused. So he ordered that he be imprisoned. He used to send messengers to him in prison, saying, ‘If you respond and accept that which I ask of you, I will bring you out of prison and honour you highly,’ but he refused very forcefully. Then he ordered that he be brought out every day and lashed ten times, so he was taken out every day and lashed. When he had been lashed a number of times in those days, he wept and made numerous supplications, and then it wasn’t very long before he died in prison severely distressed by an affliction in his stomach. Then his funeral came about and people wept over him profusely, and he was prayed over and buried in the Khayzarān graveyard."

He related that Dāwūd ibn Rashīd al-Wāshiḥī said, "I was present during the days in which Abū Ḥanīfah was punished to make him take on the post of *qāḍī*, and he was brought out every day and lashed painfully ten times and that could plainly be seen on his back, and then he would be returned to his place – until it had reached one hundred and ten lashes in all – and they told him every day to accept the post and he would say, 'I am not worthy,' and he began to weep, until the lashing seemed to come uninterruptedly, and I heard him saying quietly, 'O Allah defend me from their evil by Your power.' When he refused them, they restricted him severely in terms of food, drink and by imprisonment, and then when he refused them, they intrigued against him, poisoned him and killed him."

Ibn ʿAfīr related, "In Rajab 150 AH, Abū Ḥanīfah died when he was seventy years old." He narrated that Muḥammad ibn al-Ḥusayn said, "When al-Ḥasan ibn ʿAmārah washed the body of Abū Ḥanīfah and had finished, he said, 'May Allah be merciful to you. You were one of the *fuqahā'*, and one of the most worshipful of us, most abstinent of us, the one of us who most united in himself the noble qualities. When you were buried you were buried and sent on to good and to rest. You have tired out those who come after you and have outshone the reciters.'"

Adh-Dhahabī mentioned in a portion of his *Manāqib* from Bishr ibn al-Walīd that Abū Yūsuf said, "Abū Ḥanīfah died in the middle of Shawwāl in 150 AH when he was seventy years old." It is said in *al-Khayrāt al-ḥisān* that, "He died in Shaʿbān or in the middle night of Shaʿbān, or that his death was in Rajab, or some say Shaʿbān, and some say the middle of Shawwāl." Similarly, in *Tabyīḍ aṣ-ṣaḥīfah*: "He died in Rajab, but some say in Shaʿbān, in 150 AH. It is also said that it was after eleven nights had passed of Jumāda'l-Ūlā of the aforementioned year, but some say in 151 AH or 153 AH. Some say that he died on the day upon which Imām ash-Shāfiʿī was born .

He died in Baghdād and was buried in the Khayzarān graveyard, and his grave there is well known and visited. When he perceived that he was about to die he prostrated and his soul left him while he was in prostration. Al-Ḥasan ibn ʿAmārah led the prayer over him six times because of the great crowds of people, and the last of them to pray over him was his son Ḥammād. They were unable to bury him until after ʿAṣr because of the great throng. Al-Manṣūr came and prayed over him at his grave, and people remained praying over his grave for more than twenty days.”

Al-Muwaffaq related that ʿAlī ibn Maymūn said, “I heard ash-Shāfiʿī ؓ saying, ‘I seek the blessing of Abū Ḥanīfah; I go to his grave every day,” as a visitor, “so when some urgent necessity comes about, I pray two *rakʿahs*, and go to his grave, and ask Allah for that necessity there, and it is not long until it is fulfilled.”

Ibn al-Mubārak visited his grave, as is in al-Muwaffaq’s *Manāqib* that Bishr ibn ʿUthmān al-Marwazī said, “ʿAbdullāh ibn al-Mubārak visited Baghdād and said, ‘Show me Abū Ḥanīfah’s grave,’ and so they showed it to him. He stood at the grave and said, ‘Abū Ḥanīfah, may Allah be merciful to you, Ibrāhīm an-Nakhaʿī died and left successors, Ḥammād ibn Abī Sulaymān died and left successors, but you died, Abū Ḥanīfah, and you have not left any successors on the face of the earth.’ Then he wept uncontrollably.”

This is only a drop that I mention from the ocean of his knowledge, *fiqh*, merits and virtues, but who is able to enumerate what has been narrated of his many virtues and merits? May Allah be exceedingly merciful to him and fill his grave with light and happiness, and may Allah be pleased with him as He is with the truly good and the elect. O Allah gather us together in his assembly by Your mercy, O Most Merciful of the merciful, and may Allah bless our master Muḥammad and his family and companions, all of them.

LATER IMAMS’ TREATMENT OF HADITH AND THEIR OMISSION OF ISNADS

All of that which our people of knowledge mention, may Allah have mercy on them, of hadith and traditions in their compilations without explaining the chains of transmission nor their origins, as is the method of as-Sarakhsī in *al-Mabsūṭ*, al-Kāshānī in *al-Badā'iʿ*, and al-Marghīnānī in *al-Hidāyah*, are those hadith and traditions which they found in the books of our earlier imams such as the Imām al-Aʿẓam, his two companions, Ibn al-Mubārak, al-Ḥasan al-Lu'lu'ī, Ibn Shujāʿ ath-Thaljī, ʿĪsā ibn Abān, al-Khaṣṣāf, aṭ-Ṭaḥāwī, al-Karkhī and al-Jaṣṣāṣ, may Allah have mercy on them. Then later there came those who expounded and elucidated *al-Hidāyah* and *al-Khulāṣ*ah and others, and who sought out these narrations from the recorded collections authored after the second century by the collectors of hadith, and if they did not find them in them they passed judgement on them that they were unusual.[14] Some people have bad opinions of those *fuqahā'* imams and ascribe little knowledge of hadith to them; far removed are they from that. On the contrary as-Sakhsī, al-Kāshānī and al-Marghīnānī relied in this area upon their imams who were well known for their memorisation and for their trustworthines, just as al-Baghawī relied in his *Maṣābīḥ* upon the authors of the well-known collections.

The Ḥāfiẓ of the age, Qāsim ibn Quṭlūbghā said, "The earliest generations of our people, may Allah have mercy on them, would dictate the *fiqh* cases and their evidences from the prophetic hadith with their chains of transmission, those such as Abū Yūsuf in the *Kitāb al-kharāj* and *al-Amālī* and Muḥammad in *Kitāb al-aṣl* and in *as-Siyar*, and similarly aṭ-Ṭaḥāwī, al-Khaṣṣāf and al-Karkhī, except in the abridged works. Then there came those who relied upon the books of the preceding early generations and narrated hadith in their books without explanation of the chains of transmission, or their origins and people were silent about these books. If we wished we could tell you in detail about the likes of these hadith which these narrators have judged to be unusual in having only a single narrator, many examples of which are to be found in *Kitāb al-Āthār* for example, but however the occasion is not appropriate, and to expand upon it must be done in another place. Yes, the reception that the hadith scholars who came after the second century gave them, whether rejecting them or accepting them, appears from these accounts of the sources of the hadith (*takhrījāt*).” Consult the *Munyah al-ʿalmaʿī fī mā fāta min takhrīj aḥādīth al-Hidāyah* by az-Zaylaʿī, published in Egypt and a copy of which is to be found in my library.

SOME NOTED ḤANAFĪS

ʿAbdullāh ibn al-Mubārak is a Ḥanafī as is mentioned in *al-Jawāhir al-muḍī’ah*. He said in a note in a biographical notice of Wakīʿ ibn al-Jarrāḥ transmitting from Ibn Maʿīn that, “he” – meaning Wakīʿ – “gives *fatwā* according to the verdict of Abū Ḥanīfah.” He said, “And Yaḥyā ibn al-Qaṭṭān would also give *fatwā* according to the verdict of Abū Ḥanīfah.” Adh-Dhahabī transmitted in *Mīzān al-iʿtidāl* in a biographical notice on Ḥammād ibn Salamah, “Shuʿbah’s theoretical understanding (*ra’y*) was that of the people of Kūfa,” as al-Fāḍil an-Nuʿmāni said in *Fī mā tamassu ilayhi al-ḥājah*.

IMĀM MUḤAMMAD IBN AL-ḤASAN

As for the narrator of the *Kitāb al-Āthār* from Imām al-Aʿẓam Abū Ḥanīfah ﵁, he was the Imām, *faqīh*, Ḥāfiẓ and “trustworthy narrator,” as ad-Dāraquṭnī said, “for the unusual hadith of Mālik in which at some point in the chain of transmission there is a single narrator,” (*Naṣb ar-rāyah*) “strong as a narrator from Mālik,” (*Mīzān al-iʿtidāl*) “utterly truthful,” as ʿAlī ibn al-Madīnī the shaykh of al-Bukhārī said in *al-Muntaẓam* of Ibn al-Jawzī and the *Taʿjīl al-manfaʿah* of Ibn Ḥajar, “Abū ʿAbdullāh Muḥammad ibn al-Ḥasan ibn Farqad, ash-Shaybānī by descent or by alliance according to the divergent opinions about him.”

I have given an abridged biographical notice about him at the beginning of the *Kitāb al-Āthār* in my commentary, and here is mention of it in *Bulūgh al-amānī* by the eminent scholar al-Kawtharī and from a volume of adh-Dhahabī and from others’ books on the eminent virtues of the *ʿulamā’*. Ibn ʿAsākir gave a biographical notice of his father al-Ḥasan ibn Farqad ash-Shaybānī in *Tārīkh Dimashq*, describing him as having social standing and wealth. Abū Ḥāzim said, "[He was] the Ḥanafī *faqīh* who was the shaykh of Imām aṭ-Ṭaḥāwī. His origins were in a town close to Ramallah in Palestine, the most-well known of them and they were the most well-known people of its inhabitants. Then they moved to Kūfa." Aṣ-Ṣaymarī narrated it with its chain of transmission in *Akhbār Abī Ḥanīfah wa aṣḥābih* and it is transcribed copied over from an Egyptian edition belonging to the Shaykh of hadith Mawlana Sayyid Muḥammad Yūsuf al-Binnūrī who resides in Karachi, and a copy is probably also with Mawlā Abu'l-Wafā' al-Afghānī who resides in Hyderabad Daccan. Ibn Saʿd said in *aṭ-Ṭabaqāt al-kubrā*, "He was originally from al-Jazīrah [in ʿIrāq] and his father had been among the troops of Shām[15] and then came to Wāsiṭ where Muḥammad was born in 132 AH." Al-Khaṭīb said in *Tārīkh Baghdād*, "His origin was that he was Damascene from the people of a town called Harastā. His father came to ʿIrāq and Muḥammad was born in Wāsiṭ and grew up in Kūfa." The truth is that he was probably originally from al-Jazīrah from one of the places where Banī Shaybān sought herbage [for their flocks] from Diyār Rubaynah. Then his father became a member of the army of Shām and Ithrā. So his family resided one time in Harastā and in a town in Palestine, and both are of the land of Shām, from where they moved to Kūfa. During his father's residence in Wāsiṭ on behalf of some work he undertook, Muḥammad was born and then they returned to Kūfa where he grew up.

He grew up in affluent circumstances in his father's prosperous and glad (*sarrī*) house in Kūfa. When he reached the age of discernment he learnt the Noble Qur'ān and committed as much of it to memory as was easy for him. He began to attend lessons on the Arabic language and on narration, Kūfa being at that time the institute of the sciences of Arabic, hadith and *fiqh* since the great Companions had come to reside there and ʿAlī ibn Abī Ṭālib, may Allah ennoble his face, took it as the capital of the caliphate.

When he reached fourteen years of age he attended the assembly of Abū Ḥanīfah in order to ask him about something that had happened to him. He asked, “What do you say about a boy who attains puberty at night after having prayed ʿIshā’, should he repeat ʿIshā’?” He said, “Yes.” And so he stood up taking his sandals and went and repeated ʿIshā’ in a corner of the mosque. That was the first he learnt from Abū Ḥanīfah. When he saw him repeating the prayer, it amazed him, and he said, “This child will succeed, inshā’Allāh” and it was as he said. Then Allah, glorious is He and exalted, cast the desire to learn the *fiqh* of Allah’s *dīn* into his heart after he had seen the majesty of the assembly of *fiqh*, and so he returned to the assembly intending to learn *fiqh*. Abū Ḥanīfah said to him, “Learn the Qur’ān by heart first,” since the person who learns *fiqh* according to the procedures of Abū Ḥanīfah seriously needs that, for as long as argumentation from the Qur’ān is straightforward then one does not turn to any other proof. It has the first rank in proof according to him, so much so that its universal statements are definitive and decisive in those cases where no particularisation is attached to them. He was absent for seven days and then came with his father and said, “I have committed it to memory.” He asked Abū Ḥanīfah about a case in *fiqh*. Abū Ḥanīfah asked, “Did you take this case from someone else or did you think it up yourself?” He said, “It is from myself.” Abū Ḥanīfah said, “You ask men’s questions. Present the disagreement to us and to the circle.” From that moment Muḥammad took up knowledge totally, clinging to the circle of Abū Ḥanīfah and writing down the answers given to the questions in his assembly, and he collected them after staying close to him for four years in this manner. Abū Ḥanīfah died, and then he completed *fiqh* with Abū Yūsuf according to the methodology (*ṭarīq*) of Abū Ḥanīfah.

Then later he travelled to Mālik and stayed with him for three years. The sum total of hadith that he heard from Mālik was seven hundred hadith with their chains of transmission, and he heard from the rest of the shaykhs of Madīnah on this journey more than he had heard from them on his previous journeys. His *Muwaṭṭa’* is counted as one of the best *Muwaṭṭa's* if not the best of them without qualification because he heard it from him in his own words completely[16] and during a period of three years, and because he mentions after the hadith in each chapter whether those hadith are to be the basis for action for the *fuqahā'* of ʿIrāq or whether they disagreed with them, along with enumeration of hadith that counter these hadith. This is a distinctive quality by which his *Muwaṭṭa'* is distinguished from other *Muwaṭṭa's*[17]. That is how my master Abu'l-Wafā' al-Afghānī transmitted it in the introduction to his gloss on *Kitāb al-Āthār*. I have *Bulūgh al-amānī* and the volume of adh-Dhahabī on the merits of the Imām and his companions, the *Manāqib* of al-Bazzāzī, the *Manāqib* of al-Muwaffaq, and the introduction to *at-Taʿlīq al-mumajjad* and other works of biographical notices, and similarly *an-Nāfiʿ al-kabīr li man yuṭāliʿu al-Jāmiʿ aṣ-ṣaghīr*, and I have relied on the transmission of it of Mawlā al-Mazbūr, may Allah reward him with the best reward.

He heard hadith from Abū Ḥanīfah, Abū Yūsuf and others of the many shaykhs in Kūfa, Baṣra, Madīnah, Makkah, Shām and the cities of ʿIrāq. Indeed together with the knowledge of Abū Ḥanīfah and Abū Yūsuf, he gathered the knowledge of al-Awzāʿī, ath-Thawrī and Mālik, so much so that he became an imam whose rank in *fiqh* no one else attained, who was strong in *tafsīr* and hadith, and an authoritative source in linguistics, by the unanimous agreement of those of the people of knowledge who have not been afflicted with partisan party-spirit.

He said, "I inherited thirty thousand[18] and spent a half on language and poetry and the other half on *fiqh* and hadith," as is transmitted in a *ṣaḥīḥ* form from him by different routes of transmission.

As for his shaykhs in hadith, I have made some of them known in the section of the book on narration from others than Abū Ḥanīfah, but in detail and in an abridged form they are:

FROM THE PEOPLE OF KŪFA

Abū Ḥanīfah, Ismāʿīl ibn Abī Khālid, Sufyān ath-Thawrī, Misʿar ibn Kidām, Mālik ibn Mighwal, Qays ibn ar-Rabīʿ, ʿUmar ibn Ward, Bukayr ibn ʿĀmir, Abū Bakr an-Nahshalī, Muḥill ibn Miḥraz aḍ-Ḍabbī, Abū Kudaynah Yaḥyā ibn al-Mihlab al-Bajalī, ʿAbd ar-Raḥmān ibn ʿAbdullāh ibn ʿUtbah al-Masʿūdī, Isrā'īl ibn Yūnus, Salām ibn Sulaym, Salām ibn Sulaymān, Abū Muʿāwiyah aḍ-Ḍarīr, Zufar, Abū Yūsuf, Ismāʿīl ibn Ibrāhīm al-Bajalī, Fuḍayl ibn Ghazwān, al-Ḥasan ibn ʿUmārah, Yūnus ibn Abī Isḥāq as-Sabīʿī, ʿAbd al-Jabbār ibn al-ʿAbbās al-Hamdānī, Muḥammad ibn Abān ibn Ṣāliḥ al-Qurashī, Saʿīd ibn ʿUbayd aṭ-Ṭā'ī, Abū Farwah ʿUrwah ibn al-Ḥārith al-Hamdānī and Abū Zuhayr al-ʿ Alā' ibn Zuhayr.

FROM THE PEOPLE OF MADĪNAH

Mālik ibn Anas, Ibrāhīm ibn Muḥammad ibn Abī Yaḥyā, ʿUbaydullāh ibn ʿUmar and his brother ʿAbdullāh, Khārijah ibn ʿAbdullāh ibn Sulaymān, Muḥammad ibn Hilāl, Ḍaḥḥāk ibn ʿUthmān, Ismāʿīl ibn Rāfiʿ, ʿAṭā' ibn Khālid, Isḥāq ibn Ḥāzim, Hishām ibn Saʿd, Usāmah ibn Zayd al-Laythī, Dāwūd ibn Qays al-Farrā', ʿĪsā ibn Abī ʿĪsā al-Ḥanāṭ, ʿAbd ar-Raḥmān ibn Abi'z-Zinād, Muḥammad ibn ʿAbd ar-Raḥmān ibn Abī Dhi'b and Khaytham ibn ʿIrāk.

FROM THE PEOPLE OF MAKKAH

Sufyān ibn ʿUyaynah al-Kūfī, Zamʿah ibn Ṣāliḥ, Ismāʿīl ibn ʿAbd al-Malik, Ṭalḥah ibn ʿAmr, Sayf ibn Sulaymān, Ibrāhīm ibn Yazīd al-Amawī, Zakariyyā ibn Isḥāq and ʿAbdullāh ibn ʿAbd ar-Raḥmān ibn Yaʿlā ath-Thaqafī aṭ-Ṭā'ī.

FROM THE PEOPLE OF BAṢRA

Abu'l-ʿAwwām ʿAbd al-ʿAzīz ibn ar-Rabīʿ, Hishām ibn ʿAbdullāh, ar-Rabīʿ ibn aṣ-Ṣabīḥ, Abū Ḥarrah Wāṣil ibn ʿAbd ar-Raḥmān, Saʿīd ibn

Abī ʿArūbah, Ismāʿīl ibn Ibrāhīm al-Baṣrī and al-Mubārak ibn Faḍālah.

FROM THE PEOPLE OF WĀSIṬ

ʿAbbād ibn al-ʿAwwām, Shuʿbah ibn al-Ḥajjāj and Abū Mālik ibn ʿAbd al-Malik an-Nakhaʿī.

FROM THE PEOPLE OF SHĀM

Abū ʿAmr ʿAbd ar-Raḥmān al-Awzāʿī, Muḥammad ibn Rāshid al-Makḥūl, Ismāʿīl ibn ʿAyyāsh al-Ḥimṣī and Thawr ibn Yazīd ad-Dimashqī.

FROM THE PEOPLE OF KHURĀSĀN

ʿAbdullāh ibn al-Mubārak.

FROM THE PEOPLE OF AL-YAMĀMAH

Ayyūb ibn ʿUtbah al-Yamāmī.

There were other people from these cities and from elsewhere. Nor was he sparing in narrating from his peers and from those younger than them, as is the way with elders in their narration from those younger than them.

When the reputation of Muḥammad ibn al-Ḥasan spread very widely and travellers spread his compilations, then people made towards him from the most distant lands in order to learn *fiqh* from him wherever he was. He reached the highest levels of *ijtihād* even though he safeguarded his ascription to Abū Ḥanīfah an-Nuʿmān, gratefully acknowledging the effect of his teaching him *fiqh*. This insistence of his on ascribing [himself to Abū Hanifah's teaching] does not lessen his standing, except among people who do not know the ranks of the men [of knowledge] and who are partisan.

Here we will content ourselves with mentioning a general outline of his companions and pupils who 'graduated' [under his tutelage], so that it will be known that he was the shaykh of the people of *ijtihād* of his age. Among them were Abū Ḥafṣ al-Kabīr al-Bukhārī, Aḥmad ibn Ḥafṣ al-ʿIjlī from whom al-Bukhārī received the *fiqh* of the people of theoretical understanding (*ra'y*) and the *Jāmiʿ* of ath-Thawrī before his travels, Abū Sulaymān Mūsā ibn Sulaymān al-Jawzajānī by means of whom the six books spread widely in both east and west, Abū ʿAbdullāh Muḥammad ibn Idris ash-Shāfiʿī one of the four Imams, Abū ʿUbayd Qāsim ibn Sallām al-Harawī that great *mujtahid* Imam, ʿAmr ibn Abī ʿAmr al-Ḥarrānī, Muḥammad ibn Samāʿah at-Tamīmī, ʿAlī ibn Maʿbad ibn Shaddād ar-Raqqī one of those who narrated the *Jāmiʿ aṣ-ṣaghīr* and *al-Kabīr*, Muʿallā ibn Manṣūr ar-Rāzī, Abū Bakr ibn Abī Muqātil, Asad ibn al-Furāt al-Qayrawānī who recorded the *madhhab* of Mālik and who was Ṣaḥnūn's shaykh, Muḥammad ibn Muqātil ar-Rāzī the shaykh of Ibn Jarīr, Yaḥyā ibn Maʿīn al-Ghaṭafānī the imam of critical study of hadith narrators (*al-jarḥ wa't-taʿdīl*), ʿAlī ibn Muslim aṭ–Ṭūsī, Mūsā ibn Naṣr ar-Rāzī, Shaddād ibn Ḥakīm al-Balkhī, al-Ḥasan ibn Ḥarb ar-Raqqī, Ibn Jabalah, Abu'l-ʿAbbās Ḥumayd, Abu't-Tawiyyah Rabīʿ ibn Nāfiʿ al-Ḥalabi, ʿUbaydullāh ibn Abī Ḥanīfah ad-Dalūsī, Abū Yazīd ʿAmr ibn Yazīd al-Jaramī, Muṣʿab ibn ʿAbdullāh az-Zuhayrī, Ayyūb al-Ḥasan an-Naysābūrī, Khalf ibn Ayyūb al-Balkhī, ʿAlī ibn Ṣubayḥ, ʿAqīl ibn ʿAnbasah, ʿAlī ibn Mihrān, ʿAmr ibn Mahir, Yaḥyā ibn Aktam, Abū ʿAbd ar-Raḥmān al-Mu'addib the educator of Al Shabib, ʿAlī ibn al-Ḥasan ar-Rāzī, Hishām ibn ʿUbaydullāh ar-Rāzī, Abū Jaʿfar Aḥmad ibn Muḥammad ibn Mihrān an-Nasawī who narrated the *Muwaṭṭa'* from him, Shuʿayb ibn Sulaymān al-Kaysānī who narrated the *Kaysāniyyāt* from him, ʿAlī ibn Ṣāliḥ al-Jurjānī narrator of the *Jurjāniyyāt* from him, Abū Bakr ibn Ibrāhīm ibn Rustum al-Marwazī narrator of *an-Nawādir* from him, Abū Zakariyyā Yaḥyā ibn Ṣāliḥ al-Waḥāẓī al-Ḥimṣī one of al-Bukhari's shaykhs in Shām, Abū Mūsā ʿĪsā ibn Abān al-Baṣrī the narrator of *al-Ḥujaj ʿalā ahl al-Madīnah* from him and author of *Kitāb al-ḥujaj al-kabīr* and *Kitāb al-ḥujaj aṣ-ṣaghīr* and *Kitāb ar-radd ʿalā al-Muraysī wa'sh-Shāfiʿī fī qabūl al-akhbār*, Sufyān ibn Saḥbān al-Baṣrī author of *Kitāb al-ʿilal* and others. Muḥammad ibn ʿUmar al-Wāqidī narrated from him just as he also narrated from al-Wāqidī, which is an example of peers narrating from each other.

When the *Muwaṭṭa’* began to spread at the beginning of the time of [the caliphate of] al-Mahdī, Muḥammad travelled to Mālik and stayed close to him for three years. The hadith he carried away that he had heard in the words of Mālik with their chains of transmission were almost seven hundred hadith, and he heard from other shaykhs of Madīnah more than he had heard from them on his other journeys. Al-Khaṭīb narrated with his chain of transmission that Yaḥyā ibn Ṣāliḥ said, “Ibn Aktam said, ‘You saw Mālik and listened to him, and you kept close company with Muḥammad ibn al-Ḥasan. Which of them was more discerning in *fiqh*?’ I said, ‘Muḥammad ibn al-Ḥasan (concerning that which he himself adheres to) is more discerning in *fiqh* than Mālik.’”

Adh-Dhahabī said, “He succeeded to the leadership of *fiqh* in ʿIrāq after Abū Yūsuf, and imams learnt *fiqh* from him, and he made compilations. He was one of the fine intellects of the world. Muḥammad ibn al-Ḥasan was a fine intellect, with a burning mind, swift in thought, strong in memory, leaping impetuously to noble things, of a beautiful constitution and natural disposition to the utmost limit, stout, of a light spirit, full of health and strength.”

THE IMAMS’ PRAISE OF IMĀM MUḤAMMAD IBN AL-ḤASAN

Al-Khaṭīb narrated from al-Ḥasan ibn Muḥammad al-Khallāl from ʿAlī ibn ʿAmr al-Jurayrī from ʿAlī ibn Muḥammad an-Nakhaʿī from Aḥmad ibn Ḥammād ibn Sufyān from al-Muzanī that Imām ash-Shāfiʿī said, “In my view the most trustworthy of people with respect to *fiqh* is Muḥammad ibn al-Ḥasan.” As-Samʿānī mentioned from al-Buwayṭī that ash-Shāfiʿī said, “Allah helped me by means of two men: Ibn ʿUyaynah in hadith and Muḥammad ibn al-Ḥasan in *fiqh*.” Ar-Rabīʿ narrated from ash-Shāfiʿī, “No one has been as kind to me in terms of knowledge and worldly means as has Muḥammad,” and he supplicated for mercy for him in all his moments. Ibn Samāʿah narrated that Muḥammad ibn al-Ḥasan repeatedly collected from his companions almost one hundred thousand dirhams for ash-Shāfiʿī. Adh-Dhahabī narrated in his volume on Idrīs ibn Yūsuf al-Qarāṭīsī that he heard ash-Shāfiʿī saying, “I have never seen anyone more knowledgeable of the Book of Allah than Muḥammad; it is as if it was revealed to him.”

Aṭ-Ṭaḥāwī narrated from Ibn Abī ʿImrān from aṭ-Ṭabarī that he heard Muʿallā ibn Manṣūr saying, “Abū Yūsuf met me at the justice department (*hay’at al-qaḍā’*) and he said, ‘Muʿallā, with whom are you keeping close company these days?’ I said, ‘I am keeping close company with Muḥammad ibn al-Ḥasan.’ He said, ‘Stick close to him, because he is the most knowledgeable of people.’” Ibn Abi’l-ʿAwwām the Ḥāfiẓ mentioned with its chain of transmission that Mālik ibn Anas said one day when the people of hadith were with him, “No one has come to us from the direction of the east in whom there is a commendable quality,” and in the assembly was Muḥammad ibn al-Ḥasan. His eye fell upon him and he added, “Except for this youth.” You know that Ibn al-Mubārak, Wakīʿ, and ʿAbd ar-Raḥmān ibn Mahdī came to him and yet he preferred him over them with this phrase.

He mentioned that ash-Shāfiʿī said, “I have not seen anyone more knowledgeable in the Book of Allah ﷻ than Muḥammad ibn al-Ḥasan; it was as if it had descended upon him.” He also said, “I never heard anyone who, when he spoke, one would have the opinion that the Qur’ān had descended in his dialect apart from Muḥammad ibn al-Ḥasan. I wrote down the equivalent of a male Bactrian camel’s load from him.” He said, “I only mentioned the male Bactrian because it carries more than any other camel.” He also mentioned that a man said to al-Muzanī, “Muḥammad said,” so he said, “Who is Muḥammad?” He said, “Ibn al-Ḥasan.” He said, “Welcome to one who fills the ear with hearing and the heart with understanding.” Then he said, “I didn’t say it, but ash-Shāfiʿī said it.” Aṣ-Ṣaymarī mentioned with its chain of transmission that ash-Shāfiʿī said, “I have never seen a man more knowledgeable of the *ḥalāl* and the *ḥarām*, the efficient causes (*ʿilal*), and the abrogating and the abrogated than Muḥammad ibn al-Ḥasan." He also said, "If people did justice to the *fuqahā'* they would know that they have never seen the like of Muḥammad ibn al-Ḥasan. I never sat with a *faqīh* who had more understanding than him, nor anyone who was more eloquent than him concerning *fiqh*. He treated *fiqh* and its causes excellently well in a way of which the great were incapable." He also said, "The most knowledgeable of the masters in my view are Mālik and then Muḥammad ibn al-Ḥasan." He also said, "I recorded a camel-load from Muḥammad ibn al-Ḥasan. If it had not been for him that knowledge which was opened up to me would not have been. All people are needy dependents of the people of Kūfa, and all of the people of Kūfa are the needy dependents of Abū Ḥanīfah." Al-Khaṭīb mentioned with its chain of transmission that to a man who said to him, "The *fuqahā'* disagree with you," ash-Shāfiʿī said "Have you ever seen a *faqīh*? Unless perhaps you saw Muḥammad ibn al-Ḥasan, because he filled both the eye and the heart. I have never seen a stout man of sharper intellect than Muḥammad ibn al-Ḥasan." He also said, "In my view the most trustworthy of people in *fiqh* is Muḥammad ibn al-Ḥasan." Adh-Dhahabī said in his volume, "That which Ibn Kās an-Nakhaʿī narrated from Aḥmad ibn Ḥammād ibn Sufyān from ar-Rabīʿ is that ash-Shāfiʿī said, 'I have not seen anyone more intelligent, more understanding, more abstinent, more scrupulous, more well-spoken than Muḥammad ibn al-Ḥasan.'"

Ibn Abi'l-ʿAwwām narrated with its chain of transmission that Dāwūd aṭ-Ṭā'ī said about Muḥammad ibn al-Ḥasan when he was young, "If he lives, he will have some importance." It is narrated that Abū Yūsuf said about Muḥammad ibn al-Ḥasan's memory while he was yet a youth, "This is how memory is!" It is narrated that Yaḥyā ibn Maʿīn said, "I wrote down *al-Jāmiʿ aṣ-ṣaghīr* from Muḥammad ibn al-Ḥasan." Aṣ-Ṣaymarī narrated with its chain of transmission that Abū ʿUbaydah said, "I have not seen anyone more knowledgeable of the Book of Allah than Muḥammad ibn al-Ḥasan." Al-Khaṭīb mentioned in his *Tārīkh* with its chain of transmission that Ismāʿīl ibn Ḥammād ibn Abī Ḥanīfah said, "Muḥammad ibn al-

Ḥasan had a circle of teaching in the mosque of Kūfa when he was twenty years old.” Adh-Dhahabī mentioned in his volume and narrated that Muḥammad ibn al-Ḥasan had abundant intelligence, complete intellect, mastery and recited Qur’ān a great deal. Aṭ-Ṭaḥāwī said, “I heard Aḥmad ibn Abī ʿImrān quoting from some of Muḥammad ibn al-Ḥasan’s companions that Muḥammad’s portion for recitation each day and night was a third of the Qur’ān.” Abū Ḥāzim said, “I heard Bakr ibn Muḥammad al-ʿAmī saying, ‘Ibn Samāʿah and ʿĪsā ibn Abān only took the goodness of the prayer from Muḥammad ibn al-Ḥasan.’”

Ibn Saʿd said, “He grew up in Kūfa and sought out knowledge and sought out hadith, and he heard directly a great deal. He sat with Abū Ḥanīfah and heard from him, and looked into theoretical understanding (*ra’y*) and he mastered it, for which he became known and in which he was skilful. He came to Baghdād and resided there, and people resorted to him and heard hadith and his theoretical understanding from him.”

Al-Khaṭīb mentioned with its chain of transmission that ʿAlī ibn al-Madīnī was asked about Muḥammad ibn al-Ḥasan and he said, “Utterly truthful.” There is the like of that in *al-Muntaẓam* by Ibn al-Jawzī and *Taʿjīl al-manfaʿah* by Ibn Ḥajar. Adh-Dhahabī said in his volume, “Ash-Shāfiʿī would advance him in an argument respecting hadith.” This is the end of what there is in *Bulūgh al-amānī* in summary without any particular order.

The imams praised him a great deal and it is unusual that Ḥāfiẓ Ibn Ḥajar’s mentioned the biographical notice of Muḥammad ibn al-Ḥasan in *Lisān al-mīzān* and transmitted the sayings of the narrators that were critical of him, so much so that he transmitted that he was a Jahmī without responding to it and he remained silent about it. Then later in the thirteenth volume of *Fatḥ al-Bārī* he had to establish and confirm the consensus of the four Imāms that the Jahmīs are a false sect, and there he transmitted with its chain of transmission the saying of Muḥammad ibn al-Ḥasan in refutation of the Jahmīs that they are contrary to the verdict of the Companions رضي الله عنهم so one has to avoid keeping company with them. So by means of his words he affirmed the consensus of the four Imāms that they were an insignificant false sect, may Allah treat us and him kindly.

And I will mention his customary approach in an appropriate place, something of the commentaries on the appendices of *Tadhkirat al-ḥuffāẓ* which relates to the Ḥāfiẓ so that you might have insight into his state when it comes to the hadith scholars among the Ḥanafīs. If you wish confirmation of what I say then check his *ad-Durar al-kāminah* and the commentary of his particular pupil, Ḥāfiẓ as-Sakhāwī, on it, and as-Sakhāwī drew attention to that in many places in the commentary. My master Abu'l-Wafā' said this in the introduction to *Kitāb al-Āthār* transmitting it from the introduction to *Bulūgh al-amānī*.

WORKS BY IMĀM MUḤAMMAD IBN AL-ḤASAN

The number of *fiqh* books that have reached us from Muḥammad ibn al-Ḥasan have not reached us from any man of knowledge of his generation. On the contrary, his books are the foundation for the law-books of the *fiqh* of the *madhhabs*. How often have we seen among investigative lawyers, over and above *faqīh* sharīʿah judges, those who sincerely wish to spread the books of Muḥammad ibn al-Ḥasan widely, acknowledging that his books are the foundations for the law books of the *fiqh* of the *madhhabs*. The extent to which the law-books of the *madhhabs* were prepared from the books of Muḥammad ibn al-Ḥasan is not hidden. For example, the *Asadiyyah*, which is the source of *Mudawwanah*[19] in the *madhhab* of Mālik, was only composed under the light of Muḥammad's books. Ash-Shāfiʿī only composed his older and newer works[20] after having studied *fiqh* with Muḥammad, recorded his books and memorised of them what he did. Ibn Ḥanbal used to reply to cases from the books of Muḥammad. It was similar with those *fuqahā'* who came after them.

KITĀB AL-AṢL OR AL-MABSŪṬ

Most of what has reached us of his books is the *Kitāb al-aṣl* known as *al-Mabsūṭ*. It is the one about which it is said that ash-Shāfiʿī had memorised it and that he composed *al-Umm* in imitation of *al-Aṣl.* A sage from the People of the Book accepted Islam after studying it, saying, “This is the book of your lesser Muḥammad, so how is it with the book of your greater Muḥammad?” It is in six volumes, each volume of which is approximately five hundred pages. A group of his companions narrated it, such as Abū Sulaymān al-Jawzajānī, Muḥammad ibn Maslamah at-Tamīmī, Muḥammad ibn Samāʿah, and Abū Ḥafṣ al-Kabīr Aḥmad ibn Ḥafṣ al-Bukhārī. Allah, glorious is He, decreed widespread dissemination for this book that comprises derivative rulings (*furūʿ*) amounting to tens of thousands of cases concerning the *ḥalāl* and the *ḥarām* of which people may not remain ignorant. Complete copies of it exist in the libraries of Istanbul, one of which is in six volumes, and that is the copy of Fayḍu’llāh, and there are those of them that are in four volumes, and they are the copies of the libraries of ʿĀṭif, Jāru’llāh, Waliyyu’d-Dīn, Qurrah Muṣṭafā Pasha and Murād Mullā. The oldest of them is the copy of Murād Mullā, but all of them are in the narration of al-Jawzajānī.

AL-JĀMIʿ AṢ-ṢAGHĪR

Among those of his books that have reached us there is *al-Jāmiʿ aṣ-ṣaghīr*, which is a blessed book comprising around 1,532 cases. Disagreements concerning 170 cases are mentioned in it, but he did not mention the use of analogical reasoning (*qiyās*) or the application of discretion (*al-istiḥsān*) except in two cases. Allah, glorious is He, also decreed widespread dissemination for it so much so that the eminent scholars of detailed investigation made commentary on it. Shaykh ʿAbd al-Ḥayy al-Laknawī, in *an-Nāfiʿ al-kabīr li man yuṭāliʿ al-Jāmiʿ aṣ-ṣaghīr* mentions its commentators. Among its narrators, according to the confirmation of the shaykhs, were al-Jawzajānī, Abū Ḥafṣ, and ʿAlī ibn Maʿbad. Abū Ṭāhir ad-Dabbās and az-Zaʿfarānī arranged it in chapters. All that is in it is investigation of cases. The reason for its composition was that Abū Yūsuf asked Muḥammad ibn al-Ḥasan, after he had completed *al-Mabsūṭ*, to write a book in which he would collect together what he had memorised from him [Abū Yūsuf] which he had narrated to him from Abū Ḥanīfah. So he compiled this book and then showed it to him, and he said, "How excellently Abū ʿAbdullāh has memorised from me, except that he has made a mistake in three cases." Muḥammad said, "I was not mistaken, but he forgot the narration." It is said that along with the high rank of Abū Yūsuf he could not be without this book whether resident or travelling. This [edition of] *al-Jāmiʿ aṣ-ṣaghīr* was printed in India with the commentary of Shaykh ʿAbd al-Ḥayy [al-Lāknawī], and it was printed in Istanbul and Egypt in the margins of Kitāb al-kharāj by Imām Abū Yūsuf.

AS-SIYAR AṢ-ṢAGHĪR

Among the books of Muḥammad also was *as-Siyar aṣ-ṣaghīr*, which he narrated from Abū Ḥanīfah. Al-Awzāʿī had tried to refute Abū Ḥanīfah and Abū Yūsuf responded to him and that book of his is the source of *as-Siyar aṣ-ṣaghīr*.

AL-JĀMIʿ AL-KABĪR

Among them also is *al-Jāmiʿ al-kabīr*, which is the book that compiles the most essential cases, comprising the source narrations and the key texts of knowledge so much so that it is almost a miracle, as al-Akmal says in his commentary upon al-Khulāṭī's abridgement of *al-Jāmiʿ al-kabīr*. Ibn Abi'l-ʿAwwām narrated from aṭ-Ṭaḥāwī from Ibn Abī ʿImrān that Muḥammad ibn Shujāʿ used to say in a digression about Muḥammad ibn al-Ḥasan, inclining from him to his shaykh al-Ḥasan ibn Ziyād, "There was not been composed in Islam a book the like of Muḥammad ibn al-Hasan's *al-Jāmiʿ al-kabīr*." It has also been narrated of aṭ-Ṭaḥāwī from Muḥammad ibn al-Ḥasan al-Mirdās that Muḥammad ibn Shujāʿ said, "The similitude of Muḥammad ibn al-Ḥasan with respect to *al-Kabīr* is that of a man who built a house such that, as it rose higher, he would build a staircase by which he could ascend to a higher point of the house until he had completed its building in such manner. Then he descended and demolished its staircases and said to people, 'It is your business. Ascend!'"

The *mujtahid* Imām Abū Bakr ar-Rāzī said in his commentary on *al-Jāmiʿ al-kabīr*, “I read some cases of *al-Jāmiʿ al-kabīr* to one of the surpassingly excellent grammarians (meaning Abū ʿAlī al-Fārisī) and he was astonished at the book’s author’s extensive knowledge of grammar.” Ibn Abi’l-ʿAwwām narrated eloquent praise of this book from the point of view of its utter conformity with the Arabic language from al-Akhfash with its chain of transmission. This book has been circulated among and deliberated over by the *fuqahā’* and tested by them using all of their different faculties and the fullest reach of their alert wakefulness with respect to *fiqh*, and the masses of the people of knowledge confirm the book’s author’s deep penetration in language and that he is a decisive authority in language just as he is in *fiqh*. Ibn Taymiyyah affirmed that in places, despite his digressions on the people of theoretical understanding (*ra’y*). Tens of imams have composed commentaries on this book and these commentaries continue to be well preserved in the world’s libraries. One copy is to be found in the library of Waliyyu’d-Dīn in Istanbul, and there is an incomplete copy in Dār al-Kutub al-Miṣriyyah.

A large body of his companions narrated *al-Jāmiʿ al-kabīr* from Muḥammad, among them Abū Sulaymān al-Jawzajānī, Abū Ḥafṣ al-Kabīr, Hishām ibn ʿUbaydullāh, and ʿAlī ibn Maʿbad ibn Shaddād. This *Jāmiʿ* has been published by Lajnah Ihyā’ al-Maʿārif an-Nuʿmāniyyah.

AZ-ZIYĀDĀT AND ZIYĀDĀT AZ-ZIYĀDĀT

Of his authorship there are also *az-Ziyādāt* and *Ziyādāt az-ziyādāt*, which he composed after *al-Jāmiʿ al-kabīr* in order to amend what cases he had left out of it, and they are both counted among his most original books, and the people of knowledge concerned themselves with composing commentaries on them. We did not obtain copies of the two books even though we pursued them diligently. That which is in libraries in Istanbul under the name of *az-Ziyādāt* is an abridgement of its commentary by Qāḍī Khān, which aṣ-Ṣadr Sulaymān abridged without having the two originals of the book.

It is said that one of the reasons for his composition of *az-Ziyādāt* was that Abū Yūsuf deduced some fine subtle derivative rulings in one of the assemblies of dictation and then said, “Deduction of these derivative rulings would be difficult for Muḥammad ibn al-Ḥasan.” When that reached him, he composed *az-Ziyādāt* as a proof that similar derivative rulings and even more subtle ones would not be difficult for him to deduce, and Allah knows best.

…

The Lajnah Ihyā’ al-Maʿārif an-Nuʿmāniyyah published the commentary on *Ziyādāt az-Ziyādāt* by as-Sakhsī in Hyderabad in India.

The Lajnah Ihyā’ al-Maʿārif an-Nuʿmāniyyah published the commentary on *Ziyādāt az-Ziyādāt* by as-Sakhsī in Hyderabad in India.

AS-SIYAR AL-KABĪR

Of his authorship there is also *as-Siyar al-kabīr*, which is one of the last works Muḥammad wrote after Abū Ḥafṣ al-Kabīr travelled to Bukhārā. So its narration was confined to Baghdād and to those such as al-Jawzajānī and Ismāʿīl ibn Tawbah al-Qazwīnī. [Hārūn] Ar-Rashid celebrated this book a great deal and made his two sons, Amīn and Maʿmūn, listen to it. The tremendous rank of this book is well known. A large group of imams wrote commentaries on it. The commentary of as-Sakhsī on it was printed by Dā’irah al-Maʿārif in Hyderabad Daccan in four volumes and today it is being printed a second time in Egypt, three volumes already having been printed. The noted scholar Muḥammad al-Munīb al-ʿIntiyābī has written a fine commentary on it called *at-Taysīr ʿala’s-siyar al-kabīr*, which is to be found in the library of Shaykh al-Islām ʿĀrif Ḥikmat in Madīnah al-Munawwarah.

These six books, meaning *al-Mabsūṭ*, the two *Ṣaghīrs,* the two *Kabīrs* and *az-Ziyādāt*, are counted as comprising those narrations which are conspicuously evident in the *madhhab* since they are narrated by means of well-known routes, whereas the rest of Muḥammad's books in *fiqh* are not so conspicuously evident in terms of their narration since they are transmitted by single individuals rather than by renowned scholars or by so many in each generation as to leave no doubt (*tawātur*).

OTHER WORKS

Among these latter is *ar-Raqqiyyāt*, in which are the cases for which he deduced rulings when he was *qāḍī* in ar-Raqqah, and which Muḥammad ibn Samāʿah narrated from him since he was with him throughout his residence there.

Of them also there is *al-Kaysāniyyāt* which Shuʿayb ibn Sulaymān al-Kaysāni narrated from him, it sometimes being called *al-Amālī*. A piece of it is to be found in al-Āṣifiyyah library in Hyderabad Daccan. Dā'irah al-Maʿārif printed it.

Among them also is *al-Jurjāniyyāt*, being narrated from him by ʿAlī ibn Muḥammad al-Jurjānī.

There is also *al-Hārūniyyāt*.

He has also *Kitāb an-nawādir* in a narration of Ibn Rustum, another narration from Muḥammad ibn Samāʿah, another from Hishām ibn ʿUbaydullāh ar-Rāzī, another from Abū Sulaymān al-Jawzajānī, another from Dāwūd ibn Rashīd, and another from ʿAlī ibn Yazīd aṭ-Ṭabarī. These books became rarities in the libraries just as their cases are rarities in the *madhhab*.

He has also *Kitāb al-kasb*, which he died before completing, and on which as-Sakhsī wrote a commentary at the end of *al-Mabsūṭ*.

THE MUWAṬṬA'

As for those works in which narration of hadith is dominant, then those which we have before us include the *Muwaṭṭa'*, which is Muḥammad's record of his narration from Mālik, in which there are approximately one hundred and seventy-five hadith from forty shaykhs other than Mālik. ʿAlī al-Qārī and al-Bīrī, the commentator on *al-Ishbāh*, and ʿUthmān al-Kumākhī wrote commentaries on it. The *Muwaṭṭa’* of Muḥammad has been printed repeatedly in India along with *at-Taʿlīq al-mumajjad* by ʿAbd al-Ḥayy al-Laknawī.

KITĀB AL-ḤUJJAH OR AL-ḤUJAJ

Among Muḥammad’s books there is *Kitāb al-ḥujjah* better known as *al-Ḥujaj*, in argumentation against the people of Madīnah, [a copy of which] is in al-Makhzūnāt al-Maḥmūdiyyah in Madīnah al-Munawwarah. At present it is being printed at the command of Lajnah Ihyā’ al-Maʿārif an-Nuʿmāniyyah along with the commentary of the noted investigative scholar Mawlana Mufti Sayyid Mahdī al-Ḥasan al-Qādirī al-Gīlānī ash-Shahjahānpūrī, may Allah preserve him.

KITĀB AL-ĀTHĀR

Among them is this book *Kitāb al-Āthār* in which he narrates hadith that connect directly back to the Messenger of Allah ﷺ (*marfūʿ*), those which stop short at a Companion or one of the Followers (*mawqūf*) and those which are attributed to the Messenger ﷺ directly by one of the Followers or Followers of the Followers without attribution to a Companion (*mursal*). It is this one that his Shaykh [Abū Ḥanīfah] composed and which Muḥammad narrated from him adding to it this commentary, and this is its introduction.

Ḥāfiẓ Ibn Ḥajar composed *al-Īthār bi maʿrifat ruwāt al-āthār* about its narrators at the suggestion of the noted scholar al-Qāsim. Then later he also composed another book on its narrators. (I have compiled its narrators in a separate volume).

MUSNAD ABĪ ḤANĪFAH

Similarly, Muḥammad has the *Musnad Abī Ḥanīfah*, which is well known as the edition of Muḥammad.

Muḥammad ibn Isḥāq an-Nadīm mentions in his *Fihrist* that among his compositions are *Kitāb al-ijtihād wa’r-ra’y, Kitāb al-*

istiḥsān, Kitāb al-khiṣāl, and *Kitāb uṣūl al-fiqh*.

This is what I have abridged from *Bulūgh al-amālī* in no particular order, both abridging it and adding to it in some places.

THE DEATH OF IMĀM MUḤAMMAD IBN AL-ḤASAN

He was born in 132 AH as Ibn Abi'l-ʿAwwām, Ibn Saʿd, al-Khaṭīb and others state, but there are some who say it was in 135 AH. As for his death it was in 189 AH according to the agreement of Ibn Saʿd, Ibn al-Khayyāṭ, and al-Khaṭīb. Those who say in 188 AH are wrong, as occurs in *al-Faḍā'il* of Ibn Abi'l-ʿAwwām. Abū ʿAbdullāh aṣ-Ṣaymarī said, "Al-Marzubānī informed us, 'Ibrāhīm ibn Muḥammad ibn ʿArafah the grammarian narrated to us that Muḥammad ibn al-Ḥasan and al-Kisā'ī died in ar-Rayy in 189 AH, and so ar-Rashīd said, "I have buried *fiqh* and the Arabic language in ar-Rayy."'" It is said that Muḥammad died and then al-Kisā'ī two days after him. Some said that they both died on the same day, and Allah knows best.

There is in al-Kurdarī's *al-Manāqib* that Abu'l-Ḥasan ʿAlī ibn Mūsā al-Qummī mentioned that Muḥammad ibn al-Ḥasan was buried in the hill Ṭabarrak, a fortress in ar-Rayy near to the house of Hishām ibn ʿUbaydullāh ar-Rāzī, because he had been residing with him. Al-Kisā'ī was in the town of Abnawayh. Between them was a distance of four farsakhs. The camp of ar-Rashīd's army was four farsakhs in extent, with Imām Muḥammad residing on one side and al-Kisā'ī on the other. That was when ar-Rashīd went out to meet Rāfiʿ ibn al-Layth ibn Sayyār at Samarqand.

Adh-Dhahabī mentioned in his volume from Yūnus ibn ʿAbd al-Aʿlā from ʿAlī ibn Maʿbad that the Rayy man in whose house Imām Muḥammad died (Hishām ibn ʿUbaydullāh) said, "I was with Muḥammad while he was dying, and he wept. So I said to him, 'Do you weep even with the knowledge [you have]?' He said, 'What do you think? If Allah, exalted is He, makes me stand and says, "Muḥammad! What made you advance so boldly to ar-Rayy? Was it *jihād* in My way or to seek My good pleasure?" What shall I say?' And then he died, may Allah be merciful to him."

Aṣ-Ṣaymarī said: ʿUmar ibn Ibrāhīm informed us: Mukrim narrated to us: Muḥammad ibn ʿAbd as-Salām narrated to us: Sulaymān ibn Dāwūd ibn Kathīr al-Bāhilī and ʿAbd al-Wahhāb ibn ʿĪsā narrated to me saying: (Aḥmad ibn) Muḥammad ibn Abī Rajā' narrated to us saying, "I heard my father saying, 'I saw Muḥammad ibn al-Ḥasan in a dream and said to him, "What has your Lord done with you?" and he said, "He made me enter the Garden [saying], 'I did not make you a vessel full of knowledge intending to punish you.'"' He said, 'I said, "What about Abū Yūsuf?" He said, "He is a degree above me," or "above us."' He said, 'I said, "What about Abū Ḥanīfah?" He said, "He is in the highest part of ʿIlliyyīn."'"

The Ḥāfiẓ ibn Abi'l-ʿAwwām said: Muḥammad ibn Aḥmad ibn Ḥammād narrated to me saying: Aḥmad ibn al-Qāsim al-Barqī narrated to me: Abū ʿAlī Aḥmad ibn Muḥammad ibn Abī Rajā' narrated to us saying, "I heard my father saying, 'I saw Muḥammad ibn al-Ḥasan in a dream and said to him, "What have you attained?" He said, "He forgave me." I said, "For what reason?" He said, "He said, 'We did not place this knowledge in you except that We forgave you.'"' He said, 'I said, "What has Abū Yūsuf done?" He said, "He is a degree above us."' He said, 'I said, "And Abū Ḥanīfah?" He said, "He is in the highest of the ʿIlliyyīn."'"

The wording of al-Khaṭīb is close to this except that he narrates by way of Ibn al-Muflis from Sulaymān ibn Abī Shaykh from Ibn Abī Rajā' from Maḥmawayh who was one of the Abdāl, and Allah knows best. May Allah shower both His mercy and His good pleasure upon his grave, and by His gracious bestowal and His generosity may He benefit us by his sciences, for certainly He is the Near and the Answerer.

Aṣ-Ṣaymarī narrated from al-Mirzabānī from Abū Bakr (ibn Durayd) from Saʿīd al-Kurrī who said, "Ismāʿīl ibn Abī Muḥammad Yaḥyā ibn al-Mubārak al-Yazīdī recited to me from his father that he recited as an elegy for Muḥammad ibn al-Ḥasan and al-Kisā'ī:

The world has dwindled; it is not eternal
    Whatever we see of splendour will perish.
Every one of us has a spring of death

and he will certainly come to drink from it.
There will come to you that which annihilated the past generations
so be prepared, because annihilation is ever ready.
Have you not seen that the prevalence of grey hairs comes unexpectedly before decrepitude,
and that fresh youthfulness does not return?
I grieve for the Chief Qāḍī Muḥammad
and so my tears pour forth and my heart is broken.
And I say that if the affair becomes complicated, who do we have
to make it clear one day when you are not to be found?
The death of al-Kisā'ī after him brought me to the brink of destruction
and the wide earth was almost shaken with me.
It made me forget even the necessities of life and every pleasure
and it has made my eye sleepless while other eyes are fast asleep.

* * *

So my grief, when a thought occurs to my heart
in memory of them, until death is new.

Ibn ʿAbd al-Barr mentioned the like of that in *al-Intiqā'* and he attributed it to ar-Rashīd saying that he recited it thus:

I grieve for the Chief Qāḍī Muḥammad
and so my tears pour forth and my heart is broken.

And the rest of the verses, and perhaps he imitated the verses of al-Yazīdī.

That is the end of what al-Kawtharī mentioned in *Bulūgh al-amālī*, here abridged and in no particular order. May Allah be merciful to him with the mercy shown to those with Him, and may He illuminate his grave, and reward him with the best reward for knowledge and on behalf of the people of knowledge. This is the last of that which I intended to give in biographical notice of Imām Muḥammad ibn al-Ḥasan the Lordly man of knowledge who formulated precisely the Nuʿmāni *madhhab*. May Allah bless our master and lord Muḥammad and his family and companions and grant them much peace. The end of our supplication is that praise belongs to Allah Lord of the Worlds.

THE CUSTOMARY USAGES OF THE IMĀMS IN THE BOOK

The ordinary procedure of Imām Muḥammad in his books is that he only narrates from his shaykhs using the formulation, “He informed us,” and he does not use, “He narrated to us,” nor, “I heard,” nor any other formulation of narration except in three places: “from ʿAbdullāh ibn al-Mubārak,” “from al-Mubārak ibn Faḍālah” and “from ʿAbdullāh ibn al-Mubārak” using the formulation “from”. Apart from that in every chapter he uses the formulation “Abū Yūsuf” or someone else “informed us”. He says in one place, “I heard Abū Ḥanīfah saying....”

Imām Abū Ḥanīfah uses two formulations, “He narrated to us,” and “from” in narration from shaykhs in most conditions. However, in one chapter he uses, “ʿAlqamah ibn Marthad informed us,” and in one chapter, “I heard ash-Shaʿbī saying,” and he said in one place, “I heard ʿAṭā’ ibn Abī Rabāḥ.” Ash-Shaʿbī saw five hundred of the Companions and narrated from them, and Ibrāhīm an-Nakhaʿī was his contemporary so it is not unlikely that Abū Ḥanīfah would relate from him directly without Ḥammād or anyone else as an intermediary narrator. Ḥammād had confirmed him as the one to execute Ibrāhīm’s inheritance as is clear in the books on narrators and their states.

Hadith scholars differ concerning the formulations involving narration, informing, hearing or making to hear. It is transmitted that Imām Abū Ḥanīfah considered reading aloud to the shaykh or hearing from him to be equivalent. There is in *an-Nawāzil*, “And Nuṣayr narrated from Khalaf that Abū ʿAbdullāh aṣ-Ṣanʿānī said, ‘I heard Abū Ḥanīfah and Sufyān saying, “Reading aloud to an *ʿālim* or hearing from him are equal,''" and it is also quoted of Mālik and his people, and from the greater part of the people of knowledge of the Ḥijāz and Kūfa, and ash-Shāfiʿī and al-Bukhārī. The use of "he narrated to me" and "he informed me" without qualifying it by saying "by my reading" or "reading it out to him" is a permissible choice as it was the *madhhab* of our people and ath-Thawrī, Ibn ʿUyaynah, az-Zuhrī, Mālik, al-Bukhārī, Yaḥyā ibn Saʿīd al-Qaṭṭān, most of the scholars of Kūfa and the Ḥijāz, and al-Ḥākim made the choice that most of the shaykhs and imams of his epoch had decided upon that.

Others also mentioned that the narrator says concerning that which he takes from the hadith scholar while there is no one else present, "So-and-so narrated to me," and concerning the case when others are present, "So-and-so narrated to us," and concerning that which he himself reads out to the hadith scholar, "So-and-so informed me," and for that which is read out to the hadith scholar while the narrator is present, "So-and-so informed us." Ibn aṣ-Ṣalāḥ said, "That is good and clear but it is not obligatory, but rather it is desirable (*mustaḥabb*)." That is how al-Khaṭīb quoted from the people of knowledge in general. (*Fatḥ al-mulham* abridged).

So Imām Muḥammad used this all unqualifiedly. He heard more than seven hundred hadith verbally from Mālik alone and he would say in narration from him, "Mālik ibn Anas informed us," as he does in the *Muwaṭṭa'*. This is also his ordinary procedure in *Kitāb al-ḥujjah* and *Kitāb al-Āthār* for he says, "Abū Ḥanīfah informed us," or he says, "Your *faqīh* Mālik ibn Anas informed us," "Shuʿbah informed us," and "Sufyān ath-Thawrī informed us," for example. This is the expression he uses in general comprising narration, being informed, hearing from the shaykhs, reading out to them or being present while someone else reads out to them.

TYPES OF HADITH AND INFORMATION

The word tradition (*athar*) is a synonym for any piece of information or news (*khabr*) and is used unqualifiedly for both a hadith attributed to the Messenger of Allah ﷺ (*marfūʿ*) and one which stops short at one of the Companions (*mawqūf*). Imām Muḥammad uses it in a universal sense for both a hadith attributed to the Messenger of Allah ﷺ (*marfūʿ*) and one which stops short at one of the Companions (*mawqūf*) or one of the major Followers, the Followers' hadith which they attribute without naming the Companion from whom they heard them (*mursal*), and those transmissions in which there is a link missing between the narrator and the Follower (*munqaṭaʿ*), as you will see in the appropriate places in the book, where he says, "A tradition (*athar*) about that has come from the Messenger of Allah ﷺ," and "We adhere to this tradition (*athar*)," and sometimes saying, "We adhere to the hadith of the Messenger of Allah ﷺ," and another time saying, "There are many traditions concerning that," or "There are many items of information (*akhbār*) concerning that" etc.

The word 'item of information' (*khabr*) is more general in sense than hadith. Every hadith is an item of information (*khabr*) but not every item of information is a hadith, i.e. one ascribed to the Prophet ﷺ (*marfūʿ*). So 'item of information' is used both for those ascribed to the Prophet ﷺ (*marfūʿ*) and those which stop short at a Companion (*mawqūf*), and, according to him, matters more general than them also, as we will see in the book.

When used unqualifiedly, what is meant by "hadith" is that which is ascribed to the Prophet ﷺ and not those which stop short at a Companion unless there is a conjoining term [such as "a hadith of ʿUmar"]. Some of the people of knowledge have used "hadith" unqualifiedly for both those ascribed to the Prophet ﷺ and those which stop short at a Companion, so that it is a synonym for a tradition. The *fuqahā'* of Khurāsān call those which stop short at a Companion traditions (*athar*) and those which are ascribed to the Prophet ﷺ (*marfūʿ*) items of information (*khabr*). There are different schools according to what people prefer.

THE STRUCTURE OF THE KITĀB AL-ĀTHĀR

You must have recognised that the *Kitāb al-Āthār* is composed of chapters most of which stop short at the Companions and the Followers, and chapters comprising cases upon which the scholars have disagreed. The traditions ascribed to the Prophet ﷺ are more than one hundred in number and all of them are acted upon and are decisive, so that it may be known that where those traditions which stop short [at the Companions or Followers] accord with the hadith ascribed to the Prophet ﷺ they are all acted upon. The path of the earliest generations of the people of knowledge was that when hadith from the Messenger of Allah ﷺ contradicted each other, they would turn to the verdicts adhered to by the Companions, and wherever their verdicts and their actions accorded with one of the hadith they would adhere to it and they would interpret the second of them. Whenever the verdicts of the Companions differed they would resort to the verdicts adopted by their major Followers. If the verdicts of the Followers also differed they would give precedence to one of the verdicts of the Companions over others by the ways and means of establishing precedence they had according to their fundamental principles, those they regarded as firmly established and confirmed. Selecting from among the verdicts of the Companions and Followers was an active exertion of the intellect to arrive at a judgement (*ijtihād*) undertaken by the people of *fiqh*. Then later they would themselves exert their intellects to arrive at judgements as the very first of them had done, as our Imām al-Aʿẓam Abū Ḥanīfah made clear ؒ.

Then later Imām Mālik ibn Anas followed his path in his arrangement of the *Muwaṭṭa'* in chapters, as did ath-Thawrī with al-*Jāmiʿ*. Then later again ʿAbd ar-Razzāq ibn al-Hamām al-Yamānī took that same path with his *Muṣannaf*, with Abū Bakr ibn Abī Shaybah in his turn following him in his *Muṣannaf* in which he joined together the *fatwās* of the Companions and Followers without leaving anything out of the verdicts of the Companions and the Followers without mentioning it in it, as the people of knowledge given to research have explained in their books.

THE TECHNICAL USAGES OF IMĀM MUḤAMMAD IN THE BOOK

Among them are that the words *athar* – tradition, and hadith have the same meaning for him, as you have learnt in what we have done previously. Similarly, "informed us" and "narrated to us" have the same meaning. He only narrates from his shaykhs by saying, "He informed us," or "from so-and-so," as you have learnt already. Imām Abū Ḥanīfah only says in narration from his shaykhs, "He narrated to us," or "from so-and-so," except in two chapters in *al-Āthār* where he says, "so-and-so informed us," or in one chapter, he said, "I heard ash-Shaʿbī saying such-and-such."

Another matter is that, as you have learnt, he only mentions Abū Yūsuf in one chapter in detailing a narration from someone other than the Imām, and also before that.

He often says after narrating a tradition or a hadith, "We adhere to this and it is the verdict of Abū Ḥanīfah," and if there are many issues in the tradition or hadith, then he says, "We adhere to all of this and it is the verdict of Abū Ḥanīfah." Sometimes he says, "We adhere to all of this except in one respect," or "in two respects," if there is something that contradicts the verdict he took. The "respect" in the above means the "case".

If the tradition and that which it contains is contrary to the verdict that Abū Ḥanīfah or he has taken, he says, "We do not adhere to this, but we adhere to the hadith of so-and-so…"

He often mentions after the tradition, "This is the verdict of Abū Ḥanīfah," without mentioning his own verdict, neither in affirmation nor in refutation, but he sometimes says, "This is the verdict of Abū Ḥanīfah and our verdict."

He uses the phrases, "This ought not to be," in the sense of "this is not permissible," but he also uses it in the sense of "this is not desirable," and that can be recognised from the context.

He uses the term "it is disapproved" in the sense of disapproved to the point of being *ḥarām*.

When he intends to say that something is permissible he says, “And we see no harm in that,” or “we see no harm in it.”

If he narrates two contrary verdicts from the Companions both of which are permissible, then he will say, “All of that is fine, but the more pleasing to us is the verdict of so-and-so,” meaning that it is better and weightier.

His usage of the expression “it does not please us,” (*la yuʿjibunā*) is often used both for something being impermissible as well as for it being permissible but disapproved, either prohibitively (*taḥrīm*) or lightly (*tanzīh*), which is to be known from the type of case and from the thread of the argument and the preceding and succeeding parts of the argument.

If there is any ambiguity in the tradition or in the hadith he makes it clear.

If he narrates the tradition or the hadith and in it there is a single ruling, then he will mention another ruling from the same category or comparable rulings, and he may mention other rulings under the tradition in that chapter.

If it is necessary to solve linguistic matters that occur in a tradition or a hadith, then he will clarify them and explain their meanings.

He will often explain the purpose of a tradition or a hadith.

He uses the wording “preferable” (*aḥabbu* – lit. more beloved) in most cases to mean that something is recommended (*mustaḥabb*).

If he narrates from the Companions then he says, for example, “The verdict of Zayd ibn Thābit is preferable in our view to the verdict of ʿAlī or Ibn Masʿūd,” or he may say, “The verdict of ʿAlī is preferable in our view to the verdict of ʿUmar,” or he may say, “We adhere to the verdict of ʿĀ’ishah and we do not adhere to the former verdict.”

He says, “Abū Ḥanīfah used to adhere to all of this, but as for our verdict, it is not like that,” and then he will explain that, proving his verdict by another hadith or a tradition.

He bases his verdict on that which is closer to the *fiqh* and understanding and will abandon the apparent outward meaning of a tradition, basing himself on that to which his *ijtihād* leads him.

He often opposes the stated view of Ibn Masʿūd ؓ basing himself upon contrary hadith and traditions he has memorised that abrogate what Ibn Masʿūd ؓ said, such as in the case of placing the hands between the knees in prayer, and the imam standing between two men, and performing the *jamāʿah* prayer in a house without an *adhān* or an *iqāmah*, etc.

These are some of the usages and practices that will become apparent to you throughout the book inshā'Allāh, exalted is He.

USAGES OF THE EARLY GENERATIONS

In the books of hadith compiled in the second century, hadith were mixed up with sayings of the Companions and the Followers, as you will find in the *Kitāb al-Āthār* and the *Muwaṭṭa'* of Imām Mālik. The verdict that one should not accept the statements of the Companions alone came about at the end of the second century after the generations whose good standing was borne witness to [by the Prophet ﷺ] had passed away, when suspicious narrators turned away from acceptance of the *fuqahā'* and from the transmission by inheritance (*tawāruth*) from the *salaf*, and they built the matter of the soundness of a hadith or its weakness purely upon the basis of the chain of transmission (*Mā tamassu ilayhi al-ḥājah*).

The *salaf* didn't need to examine chains of transmission because their epoch was so close and because of the expertise of the narrators and because of their expert knowledge about them, and because the conditions of the narrators of hadith from the epoch of the Companions and the Followers were well known to the people of their cities, some of them being in the Ḥijāz, some in ʿIrāq and some in Shām and Egypt, and all of them being well known and famous for their traditions. They used to rely for their knowledge of the narrators and their trustworthiness upon what was clear to them of the perception of their state and their following up of factual evidence.

When the epoch of the *salaf* came to an end and the first early period had gone, then those of the third century who came after them devoted themselves to learning the narrators and the ranks of these transmitters, their differences in that, learning to distinguish them one by one, validating and invalidating (*al-jarḥ wa't-taʿdīl*) in respect of their memorisation and their attention to detail, so much so that they made it an art in itself, and compiled registers about it, and they researched and investigated the judgement regarding soundness or weakness, the connectedness or the interrupted nature of a chain of transmission, etc. They did that to such an extent that it brought them to deny the *mursal* [hadith attributed by one of the Followers or Followers of the Followers to the Prophet ﷺ without an intermediary transmitter from among the Companions]. The Shaykh al-Islām and memoriser of hadith of the age, al-ʿIrāqī said, "Muḥammad ibn Jarīr aṭ-Ṭabarī said, 'The Followers were absolutely unanimously agreed upon the acceptability of *mursal* hadith, and we have no transmission from any of them rejecting it nor from any of the imams after them until the end of the second century.'"

So these people used the technical usages of dividing the hadith into sound (*ṣaḥīḥ*), good (*ḥasan*), weak (*ḍaʿīf*), *mursal*, interrupted (*munqaṭiʿ*), problematic (*muʿḍal*), etc., of all those well known categories in the principles of hadith, and then they would narrate of that the *mursal* and what was after it. But as for the *salaf*, there was no difference between *mursal*, sound and good hadith, and indeed they [the later hadith scholars] would use the term *mursal* for [what were known as] interrupted and problematic hadith, so that a great deal of the Sunnah was neglected by these people, Sunnah which the *salaf* had accepted. Al-Bukhārī went to the greatest lengths in that, to such an extent that he also rejected using good (*ḥasan*) hadith in proof. Ash-Shawkānī said in *Nayl al-Awṭār*, "Thus it is permissible to use in proof that which one of the recognised imams declared openly to be good (*ḥasan*), because according to the majority what is good (*ḥasan*) may be used in practice, and only al-Bukhārī and [Qāḍī Abū Bakr] Ibn al-ʿArabī opposed its permissibility. The truth is that which the majority said because the evidences for the obligatory nature of an act by means of hadith transmitted by single narrators (indecipherable word) encompasses it.” Al-Muqbilī said in *al-Arwāḥ an-nawāfiḥ*, “No one except for al-Bukhārī stipulated as a condition for something to be acted upon that it should be *ṣaḥīḥ* in the terminology of the later scholars, and that is a very improbable statement without proof. On the contrary, if someone were to say the opposite of that upon which the former and the others were based it would be acceptable.” (*Mā tamassu ilayhi al-ḥājah*)

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[1] “‘A half of her flew to heaven and a half in the earth’ is an expression denoting extremity of anger and rage. One says, ‘So-and-so has split from anger and rage,’ as if his inward had filled up with it so much that he split.” *An-Nihāyah fī gharīb al-ḥadīth*. The text between the brackets is found in my copy of the *Musnad* of Aḥmad but not in the author’s text.

[2] The passage’s meaning is not clear to the translator or editor.

[3] Presumably meaning a young man.

[4] The *fuqahā’* are the doctors and the people who have knowledge of the hadith are like the pharmacists who mix the remedy.

[5] Abū Ḥanīfah was a merchant in fabric. *Khazz* is a fabric woven of both wool and silk or sometimes just silk.

[6] The sentence was unfinished in the original.

[7] When slaves are set free they have a *walā’* relationship with their former masters, and are termed *mawlā*. But there is a *walā’* relationship that was entered into by free people coming among another tribe and becoming their *mawlās*.

[8] *Al-Khazzāz*, a name of Imām Abū Ḥanīfah, is a seller of *khazz*.

[9] The implication being that if Abū Hanifah’s son was older than Mālik, then the earliest possible date of birth must necessarily belong to him.

[10] *Qirmisī* I take to be another usage for *qirmizī* – crimson.

[11] Ibrāhīm ibn ʿAbdullāh ibn Ḥasan was one of the family of the Prophet ﷺ who did not accept the Abbasid revolution against the Umayyads and himself laid claim to the

caliphate. Many of the right-acting Muslims and *ʿulamā'* of the time supported him. Trans.

[12] A thick gruel made with wheat or barley, which is supped.

[13] *Dawāniq* is the plural of *dāniq*, which is a small coin. Al-Manṣūr was known as ad-Dawāniqī because of his minute attention to small sums of money, which was considered a meanness in him.

[14] That they were *gharīb* hadith which at some point were only transmitted by a single narrator. Trans.

[15] Shām comprises Syria, Palestine, Jordan, Lebanon and modern Israel.

[16] We were unable to decipher this word *bitr* except possibly as meaning "completely". Trans.

[17] i.e. from the perspective of Ḥanafī *fiqh*. Otherwise, the *Muwaṭṭa'* of Imām Muḥammad is of great interest to hadith scholars and particularly to specialists in the *Muwaṭṭa'*, since it has some slight differences of wording and chains of transmission, and because it contains at least one hadith that no one else narrated from Mālik, most famously, "Actions are only by intentions...". It lacks Imām Malik's own elucidation of the texts and the *fiqh* from the perspective of Madīnan *fiqh*, which was considered by all the other transmitters of the *Muwaṭṭa'* an intrinsic part of the text. Trans.

[18] Dīnārs or dirhams.

[19] The *Mudawwanah* is an illuminating example of the cross-pollination of the *madhhabs*. Asad ibn al-Furāt had been a pupil of Mālik and then travelled to ʿIrāq and studied under Muḥammad ibn al-Ḥasan and others. In the interim, Imām Mālik & died, and Asad, regretting having lost the opportunity to learn from him, went to his main pupil ʿAbd ar-Raḥmān ibn al-Qāsim. Using the procedures of the Iraqi school, he asked Ibn al-Qāsim case by case on Imām Mālik's positions in *fiqh*. The approach was thus that of the Iraqi school, but the content was Madīnan. Later, Ṣaḥnūn took a copy of his work, *al-Asadiyyah*, and thoroughly revised it with ʿAbd ar-Raḥmān ibn al-Qāsim, and that became the *Mudawwanah*. Trans.

[29] The older works such as *al-Umm* were composed in ʿIrāq, but when ash-Shāfiʿī went to Cairo he revised much of his thought in the newer works such as *ar-Risālah*. Trans.

The Kitāb al-Āthār

PURIFICATION

بَابُ الْوُضُوءِ

1. *WuḌŪ’*

١– قَالَ مُحَمَّدُ بْنُ الْحَسَنِ: أَخْبَرَنَا أَبُوحَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنِ الأَسْوَدِ بْنِ
يَزِيدَ عَنْ عُمَرَ بْنِ الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ أَنَّهُ تَوَضَّأَ، فَغَسَلَ يَدَيْهِ مَثْنَى وَتَمَضْمَضَ مَثْنَى،
وَاسْتَنْشَقَ مَثْنَى وَغَسَلَ وَجْهَهُ وَغَسَلَ ذِرَاعَيْهِ مَثْنَى، مُقْبِلاً وَمُدْبِراً، وَمَسَحَ رَأْسَهُ
مَثْنَى وَغَسَلَ رِجْلَيْهِ مَثْنَى وَقَالَ حَمَّادٌ: الْوَاحِدَةُ تُجْزِئُ إِذَا أُسْبِغَتْ.

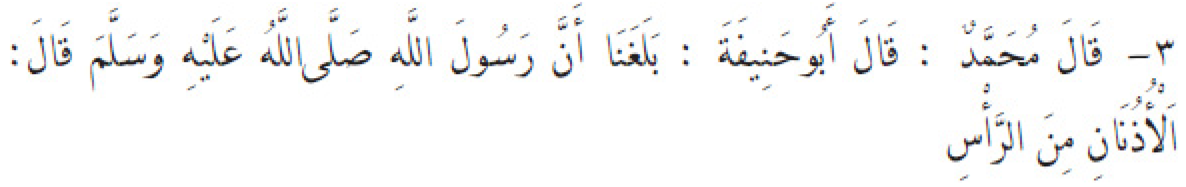
1. Muḥammad ibn al-Ḥasan said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm [an-Nakhaʿī] from al-Aswad ibn Yazīd that ʿUmar ibn al-Khaṭṭāb ؓ performed *wuḍū’*, and washed his hands twice, rinsed his mouth[1] twice, rinsed his nose[2] twice, washed his face twice, washed his forearms twice:[3] forwards and backwards,[4] then wiped[5] his head twice,[6] and washed his feet twice. Ḥammād said, ‘Once suffices[7] if it is done fully.’”[8] [9]

قَالَ مُحَمَّدٌ: هَذَا قَوْلُ أَبِي حَنِيفَةَ وَبِهِ نَأْخُذُ.

Muḥammad said, “This is the verdict of Abū Ḥanīfah,[10] and we adhere to it.”

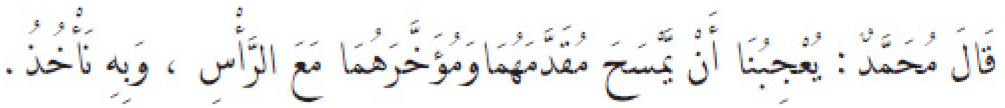
٢– مُحَمَّدٌ قَالَ أَخْبَرَنَا أَبُوحَنِيفَةَ، عَنْ حَمَّادٍ، عَنْ إِبْرَاهِيمَ قَالَ: اغْسِلْ مُقَدَّمَ أُذُنَيْكَ
مَعَ الْوَجْهِ وَامْسَحْ مُؤَخَّرَ أُذُنَيْكَ مَعَ الرَّأْسِ.

2. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Wash[11] the front of your ears along with the face, and wipe the back of your ears along with the head.’”[12]



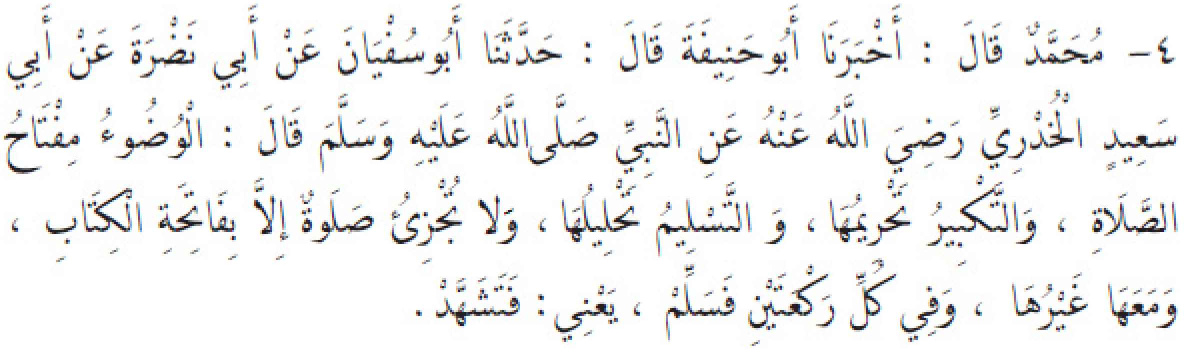
٣– قَالَ مُحَمَّدٌ : قَالَ أَبُوحَنِيفَةَ : بَلَغَنَا أَنَّ رَسُولَ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ قَالَ :
اَلْأُذُنَانِ مِنَ الرَّأْسِ

3. Muḥammad said, “Abū Ḥanīfah said, ‘It has reached us that the Messenger of Allah ﷺ said, “The ears are a part of the head.”’”[13] [14]



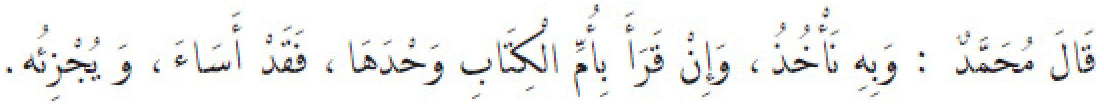
قَالَ مُحَمَّدٌ : يُعْجِبُنَا أَنْ يَّمْسَحَ مُقَدَّمَهُمَاوَمُؤَخَّرَهُمَا مَعَ الرَّأْسِ ، وَبِهِ نَأْخُذُ .

Muḥammad said, “It pleases us[15] that one[16] should wipe both their fronts and their backs along with the head. And we adhere to this.”[17]



٤– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُوحَنِيفَةَ قَالَ : حَدَّثَنَا أَبُوسُفْيَانَ عَنْ أَبِي نَضْرَةَ عَنْ أَبِي
سَعِيدٍ الْخُدْرِيِّ رَضِيَ اللّٰهُ عَنْهُ عَنِ النَّبِيِّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ قَالَ : اَلْوُضُوءُ مِفْتَاحُ
الصَّلَاةِ ، وَالتَّكْبِيرُ تَحْرِيمُهَا ، وَ التَّسْلِيمُ تَحْلِيلُهَا ، وَلَا تُجْزِئُ صَلٰوةٌ إِلَّا بِفَاتِحَةِ الْكِتَابِ ،
وَمَعَهَا غَيْرُهَا ، وَفِي كُلِّ رَكْعَتَيْنِ فَسَلِّمْ ، يَعْنِي : فَتَشَهَّدْ .

4. Muḥammad said, “Abū Ḥanīfah informed us, ‘Abū Sufyān [Ṭarīf ibn Shihāb] narrated to us from Abū Naḍrah [al-Mundhir ibn Mālik] from Abū Saʿīd al-Khudrī ؓ that the Prophet ﷺ said, “*Wuḍū*’ is the key[18] to the prayer, and *takbīr*[19] is what renders actions not fitting with the prayer impermissible and *as-salāmu ʿalaykum*[20] is what renders actions other than the prayer [such as speech and other things] permissible. A prayer without the Opening of the Book [al-Fātiḥah] and some other [*āyāt*] along with it is not valid,[21] and give greetings[22] in every two *rakʿahs*,”’ meaning the *tashahhud*.”[23]



قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَإِنْ قَرَأَ بِأُمِّ الْكِتَابِ وَحْدَهَا ، فَقَدْ أَسَاءَ ، وَ يُجْزِئُهُ .

Muḥammad said, “We adhere to this, and one has done badly if he only recites the Mother of the Book [*Umm al-Kitāb* – al-Fātiḥah],[24] but it suffices him.”

٥– قَالَ مُحَمَّدٌ : بَلَغَنَا أَنَّ ابْنَ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُ سُئِلَ عَنْ الْقِرَاءَةِ فِي الصَّلَاةِ، فَقَالَ: هُوَ إِمَامُكَ إِنْ شِئْتَ فَأَقْلِلْ مِنْهُ، وَإِنْ شِئْتَ فَأَكْثِرْ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

5. Muḥammad said, “It has reached us[25] that Ibn ʿAbbās ؓ was asked[26] about recitation in the prayer and he said, ‘It[27] is your *imām*,[28] so if you wish recite a little,[29] and if you wish recite much.’ That is the verdict of Abū Ḥanīfah ؒ.”

بَابُ مَا يُجْزِئُ فِي الْوُضُوءِ مِن سُؤْرِ الْفَرَسِ وَالْبَغْلِ وَالْحِمَارِ وَالسِّنَّوْرِ

2. WHAT WATER LEFT BY HORSES, MULES, DONKEYS[30] AND CATS IS PERMISSIBLE FOR USE IN *WUḌŪ’*

٦– مُحَمَّدٌ بْنُ الْحَسَنِ قَالَ : أَخْبَرَنَا أَبُوحَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ ، فِي السِّنَّوْرِ يَشْرَبُ مِنَ الْإِنَاءِ قَالَ : هِيَ من أَهْلِ الْبَيْتِ ، لَا بَأْسَ بِشُرْبِ فَضْلِهَا ، فَسَأَلْتُهُ أَيَتَطَهَّرُ بِفَضْلِهَا لِلصَّلَاةِ ؟ فَقَالَ : إِنَّ اللَّهَ قَدْ أَرْخَصَ الْمَاءَ ، وَلَمْ يَأْمُرْهُ وَلَمْ يَنْهَهُ.

6. Muḥammad ibn al-Ḥasan said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a cat which drinks from a vessel, ‘It is a member of the household and there is no harm[31] in drinking what it leaves,’ and so I [Ḥammād] asked him, ‘Does one use what it leaves over in purification for the prayer?’ He said, ‘Allah has made[32] water licit, but He has not commanded nor forbidden [the use of water left over by a cat].’”[33] [34]

قَالَ مُحَمَّدٌ : قَالَ أَبُو حَنِيفَةَ : غَيْرُهُ أَحَبُّ إِلَيَّ مِنْهُ ، وَإِنْ تَوَضَّأَ مِنْهُ أَجْزَأَهُ ، وَإِنْ شَرِبَهُ فَلَا بَأْسَ بِهِ. قَالَ مُحَمَّدٌ : وَ بِقَوْلِ أَبِي حَنِيفَةَ نَأْخُذُ .

Muḥammad said, “Abū Ḥanīfah said, ‘Something other than it[35] would be preferable to me, but if one does perform *wuḍū’* with it, that is valid, and if one drinks of it, there is no harm.’” Muḥammad said, “We adhere to the verdict of Abū Ḥanīfah.”

٧– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُوحَنِيفَةَ ، عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : لَا خَيْرَ فِي سُؤْرِ الْبَغْلِ وَالْحِمَارِ ، وَلَا يَتَوَضَّأُ أَحَدٌ بِسُؤْرِ الْبَغْلِ وَالْحِمَارِ ، وَيَتَوَضَّأُ من سُؤْرِ الْفَرَسِ وَالْبِرْذَوْنِ ، وَالشَّاةِ وَالْبَعِيرِ .

7. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘There is no good in water left over by mules and donkeys, and no one ought to do *wuḍū’*[36] with water left over by mules and donkeys, but one can do *wuḍū’* with water left over by horses[37] and non-Arabian horses,[38] sheep and camels.’”

قَالَ مُحَمَّدٌ : وَهُوَ قَوْلُ أَبِي حَنِيفَةَ ، وَبِهِ نَأْخُذُ .

Muḥammad said, “That is the verdict of Abū Ḥanīfah and we adhere to it.”

◆

بَابُ الْمَسْحِ عَلَى الْخُفَّيْنِ

3. WIPING OVER LEATHER SOCKS[39]

٨- مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُوحَنِيفَةَ قَالَ حَدَّثَنَا أَبُوبَكْرِ بْنُ عَبْدِ اللَّهِ بْنِ أَبِي جَهْمٍ ، عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُ قَالَ: قَدِمْتُ الْعِرَاقَ لِغَزْوَةِ جَلُولَاءَ ، فَرَأَيْتُ سَعْدَ بْنَ أَبِي وَقَّاصٍ رَضِيَ اللَّهُ عَنْهُ يَمْسَحُ عَلَى الْخُفَّيْنِ ، فَقُلْتُ : مَا هَذَا يَا سَعْدُ؟ فَقَالَ: إِذَا لَقِيتَ أَمِيرَ الْمُؤْمِنِينَ عُمَرَ رَضِيَ اللَّهُ عَنْهُ فَاسْأَلْهُ ، قَالَ : فَلَقِيتُ عُمَرَ رَضِيَ اللَّهُ عَنْهُ فَأَخْبَرْتُهُ بِمَا صَنَعَ سَعْدٌ ، قَالَ عُمَرُ رَضِيَ اللَّهُ عَنْهُ : صَدَقَ سَعْدٌ ، رَأَيْنَا رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَصْنَعُهُ ، فَصَنَعْنَاهُ .

8. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Abū Bakr ibn ʿAbdullāh ibn Abī Jahm narrated to us that ʿAbdullāh ibn ʿUmar said, “I went to Iraq on the military expedition of Jalūlā’,[40] and I saw Saʿd ibn Abī Waqqāṣ ؓ wiping over leather socks, so I said, ‘What is this,[41] Saʿd?’ He answered, ‘When you meet[42] Amīr al-Mu’minīn ʿUmar ؓ, ask him.’” He said, “So I met ʿUmar[43] ؓ and informed him of what Saʿd had done. ʿUmar ؓ said, ‘Saʿd spoke the truth. We saw the Messenger of Allah ﷺ doing it, so we did it.’”’”[44]

قَالَ مُحَمَّدٌ : وَهُوَ قَوْلُ أَبِي حَنِيفَةَ ، وَبِهِ نَأْخُذُ .

Muḥammad said, “That is the verdict of Abū Ḥanīfah, and we adhere to it.”

٩- مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُوحَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ ، عَنْ حَنْظَلَةَ بْنِ نَبَاتَةَ الْجُعْفِيِّ أَنَّ عُمَرَ بْنَ الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ قَالَ : الْمَسْحُ عَلَى الْخُفَّيْنِ لِلْمُقِيمِ يَوْماً وَلَيْلَةً ، وَ لِلْمُسَافِرِ ثَلَاثَةَ أَيَّامٍ وَلَيَالِيهِنَّ ، إِذَا لَبِسْتَهُمَا ، وَأَنْتَ طَاهِرٌ .

9. Muḥammad said, “Abū Ḥanīfah informed us, ‘Ḥammād narrated to us from Ibrāhīm from Ḥanẓalah ibn Nabātah[45] al-Juʿfī that ʿUmar ibn al-Khaṭṭāb said, “Wiping over leather socks is permitted to the resident for a day and a night, and to the traveller for three days[46] and their nights, provided that you put them on[47] while you are in a state of purity.”’”[48]

قَالَ مُحَمَّدٌ : وَهُوَ قَوْلُ أَبِي حَنِيفَةَ ، وَ بِهِ نَأْخُذُ .

Muḥammad said, “That is the verdict of Abū Ḥanīfah, and we adhere to it.”

١٠ – مُحَمَّدٌ قَالَ أَخْبَرَنَا أَبُوحَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ سَالِمِ بْنِ عَبْدِ اللَّهِ بْنِ عُمَرَ ، قَالَ : اخْتَلَفَ عَبْدُ اللَّهِ بْنُ عُمَرَ وَ سَعْدُ بْنُ أَبِي وَقَّاصٍ رَضِيَ اللَّهُ عَنْهُمَا فِي الْمَسْحِ عَلَى الْخُفَّيْنِ ، فَقَالَ سَعْدٌ : أَمْسَحُ . وَقَالَ عَبْدُ اللَّهِ : مَا يُعْجِبُنِي . فَأَتَيَا عُمَرَ بْنَ الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ . فَقَصَّا عَلَيْهِ الْقِصَّةَ ، فَقَالَ عُمَرُ رَضِيَ اللَّهُ عَنْهُ : عَمُّكَ أَفْقَهُ مِنْكَ .

10. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us that Sālim ibn ʿAbdullāh ibn ʿUmar said, “ʿAbdullāh ibn ʿUmar and Saʿd ibn Abī Waqqāṣ differed[49] about wiping[50] over leather socks, and Saʿd said, ‘I wipe[51] [over leather socks],’ and ʿAbdullāh said, ‘It doesn’t please me.’ So they came to ʿUmar ibn al-Khaṭṭāb and told him the story, and ʿUmar ؓ said, ‘Your paternal uncle has greater understanding (*fiqh*) than you.’”’”[52]

١١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُوحَنِيفَةَ عَنْ حَمَّادٍ ، عَنْ إِبْرَاهِيمَ عَنِ الشَّعْبِيِّ عَنْ إِبْرَاهِيمَ بْنِ أَبِي مُوسَى الْأَشْعَرِيِّ ، عَنِ الْمُغِيرَةِ بْنِ شُعْبَةَ رَضِيَ اللَّهُ عَنْهُ ، أَنَّهُ خَرَجَ مَعَ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فِي سَفَرٍ ، فَانْطَلَقَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَضَى حَاجَتَهُ ، ثُمَّ رَجَعَ وَعَلَيْهِ جُبَّةٌ رُومِيَّةٌ ضَيِّقَةُ الْكُمَّيْنِ ، فَرَفَعَهَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مِن ضِيقِ كُمَّيْهَا ، قَالَ الْمُغِيرَةُ : فَجَعَلْتُ أَصُبُّ عَلَيْهِ الْمَاءَ مِنْ إِدَاوَةٍ مَعِي ، فَتَوَضَّأَ وُضُوءَهُ لِلصَّلَاةِ ، وَمَسَحَ عَلَى خُفَّيْهِ ، وَلَمْ يَنْزِعْهُمَا ، ثُمَّ تَقَدَّمَ وَصَلَّى .

11. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from ash-Shaʿbī from Ibrāhīm ibn Abī Mūsā al-Ashʿarī from al-Mughīrah ibn Abī[53] Shuʿbah, that he went out with the Messenger of Allah ﷺ on a journey,[54] and the Messenger of Allah ﷺ went off to relieve himself. Then he came back, and he was wearing a long Byzantine[55] outer garment with tight

sleeves,[56] which the Messenger of Allah ﷺ rolled up[57] because of the tightness of its sleeves. Al-Mughīrah said, ‘So I began to pour water for him from a clay vessel[58] which I had. He made his *wuḍū’* for the prayer and wiped over his leather socks without taking them off, and then he stepped forward and prayed.’”[59]

١٢– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ ، عَمَّن رَأَى جَرِيرَ بْنَ
عَبْدِ اللَّهِ رَضِيَ اللَّهُ عَنْهُ يَوْماً تَوَضَّأَ ، وَمَسَحَ عَلَى خُفَّيْهِ ، فَسَأَلَهُ سَائِلٌ عَنْ ذَلِكَ ،
فَقَالَ : إِنِّي رَأَيْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَصْنَعُهُ ، وَإِنَّمَا صَحِبْتُهُ بَعْدَ مَا نَزَلَتْ
سُورَةُ الْمَائِدَةِ .

12. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm from someone who saw[60] Jarīr ibn ʿAbdullāh ؓ doing *wuḍū’* one day and wiping over his leather socks, and so someone asked him about that and he said, ‘I saw the Messenger of Allah ﷺ do it, and I only accompanied him after[61] Sūrat al-Mā’idah was revealed.’”[62]

١٣– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ ، عَنْ مُحَمَّدِ بْنِ عَمْرِو
بْنِ الْحَارِثِ ، أَنَّ عَمْرَو بْنَ الْحَارِثِ بْنِ أَبِي ضِرَارٍ صَحِبَ ابْنَ مَسْعُودٍ فِي سَفَرٍ ، فَأَتَتْ
عَلَيْهِ ثَلَاثَةُ أَيَّامٍ وَلَيَالِيهَا لَا يَنْزِعُ خُفَّيْهِ .

13. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm from Muḥammad ibn ʿAmr ibn al-Ḥārith that ʿAmr ibn al-Ḥārith ibn Abī Ḍirār accompanied Ibn Masʿūd on a journey,[63] and three days and nights would pass without him taking his leather socks off.”[64] [65]

١٤– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ ، أَنَّهُ كَانَ يَمْسَحُ عَلَى
الْجُرْمُوقَيْنِ .

14. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm used to wipe over his leather galoshes (*jurmūq*).”[66] [67]

قَالَ مُحَمَّدٌ : وَهُوَ قَوْلُ أَبِي حَنِيفَةَ وَ بِهِ نَأْخُذُ .

Muḥammad said, “That is the verdict of Abū Ḥanīfah, and we adhere to it.”

١٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ ، قَالَ : إِذَا كُنْتَ عَلَى مَسْحٍ وَ أَنْتَ عَلَى وُضُوءٍ ، فَنَزَعْتَ خُفَّيْكَ ، فَاغْسِلْ قَدَمَيْكَ .

15. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If you have been wiping [over leather socks] and you are in the state of *wuḍū’*, but then you take off your leather socks, then wash your feet.’”[68] [69]

قَالَ مُحَمَّدٌ : وَهُوَ قَوْلُ أَبِي حَنِيفَةَ ، وَبِهِ نَأْخُذُ .

Muḥammad said, “That is the verdict of Abū Ḥanīfah, and we adhere to it.”

◆

بَابُ الْوُضُوءِ مِمَّا غَيَّرَتِ النَّارُ

4. *WUḌŪ’*[70] BECAUSE OF FOOD THAT HAS BEEN COOKED OVER FIRE

١٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا عَمْرُو بْنُ مُرَّةَ عَنْ سَعِيدِ بْنِ جُبَيْرٍ عَنْ عَبْدِ اللَّهِ بْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُ أَنَّهُ قَالَ : لَوْ أُتِيتُ بِجَفْنَةٍ مِن خُبْزٍ وَّ لَحْمٍ فَأَكَلْتُ مِنْهَا حَتَّى أَشْبَعَ ، وَبِعُسٍّ مِن لَبَنِ إِبِلٍ فَشَرِبْتُ مِنْهُ حَتَّى أَتَضَلَّعَ ؛ وَأَنَا عَلَى وُضُوءٍ ، لَا أُبَالِي أَنْ لَا أَمَسَّ مَاءً . أَتَوَضَّأُ مِنَ الطَّيِّبَاتِ؟

16. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘ʿAmr ibn Murrah informed us from Saʿīd ibn Jubayr that ʿAbdullāh ibn ʿAmr ﵁ said, “If I, in the state of *wuḍū’*, was brought a large bowl[71] of bread and meat and I ate till I was satisfied, and a large bowl of camel milk from which I drank

until full,[72] I would not care[73] if I did not touch water. Should I make *wuḍū’* because of wholesome good things?”’”[74] [75]

قَالَ مُحَمَّدٌ : وَهَذَا قَوْلُ أَبِي حَنِيفَةَ وَبِهِ نَأْخُذُ ، لا وُضُوءَ مِمَّا غَيَّرَتِ النَّارُ ، وَإِنَّمَا
الْوُضُوءُ مِمَّا خَرَجَ، وَلَيْسَ مِمَّا دَخَلَ.

Muḥammad said, “This is the verdict of Abū Ḥanīfah, and we adhere to it. There is no *wuḍū’* because of that which fire has changed [by cooking]. *Wuḍū’* is only done because of things that exit[76] [the body] not because of things that enter.”[77]

١٧– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا عَبْدُ الرَّحْمَنِ بْنُ زَاذَانَ عَنْ أَبِي
سَعِيدٍ الْخُدْرِيِّ رَضِيَ اللَّهُ عَنْهُ ، قَالَ : دَخَلَ عَلَيَّ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ
بَيْتِي فَأَتَيْتُهُ بِلَحْمٍ قَدْ شُوِيَ ، فَطَعِمَ مِنْهُ فَدَعَا بِمَاءٍ ، فَغَسَلَ كَفَّيْهِ وَمَضْمَضَ، ثُمَّ صَلَّى
وَلَمْ يُحْدِثْ وُضُوءاً.

17. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘ʿAbd ar-Raḥmān ibn Zādhān narrated to us that Abū Saʿīd al-Khudrī ؓ said, “The Messenger of Allah ﷺ entered my house, and I brought meat which had been roasted and he tasted some of it. Then he called for water, washed his hands[78] and rinsed out his mouth, and later prayed without renewing *wuḍū’*.”’”[79] [80]

١٨– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ: حَدَّثَنَا شَيْبَةُ بْنُ مُسَاوِرٍ قَالَ : كُنْتُ قَاعِداً
عِنْدَ عَدِيِّ بْنِ أَرْطَاةَ إِذْ سَأَلَ الْحَسَنَ الْبَصْرِيَّ : أَتَوَضَّأُ مِمَّا مَسَّتِ النَّارُ؟ فَقَالَ : نَعَمْ.
فَقَالَ بَكْرُ بْنُ عَبْدِ اللَّهِ الْمُزَنِيُّ : دَخَلَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَلَى عَمَّتِهِ صَفِيَّةَ بِنْتِ
عَبْدِ الْمُطَّلِبِ ، فَنَتَفَتْ لَهُ مِن كَتِفٍ بَارِدَةٍ ، فَطَعِمَ مِنْهَا وَلَمْ يُحْدِثْ وُضُوءاً.

18. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Shaybah ibn Musāwir narrated to us saying, “I was seated with ʿAdī ibn Arṭāh when he

asked al-Ḥasan al-Baṣrī, ‘Should I perform *wuḍū’*[81] because of that [food] which fire has touched?’ and he answered, ‘Yes.’[82] Then Bakr ibn ʿAbdullāh al-Muznī said, ‘The Prophet ﷺ went to see his aunt Ṣafiyyah bint ʿAbd al-Muṭṭalib and she picked out some cold shoulder meat for him which he ate and he did not renew *wuḍū’*.’”’”[83]

قَالَ مُحَمَّدٌ : وَ بِقَوْلِ بَكْرِ بْنِ عَبْدِ اللَّهِ الْمُزَنِيِّ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere[84] to the verdict of Bakr ibn ʿAbdullāh al-Muznī, and it is the verdict of Abū Ḥanīfah.”

١٩– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ حَدَّثَنَا يَحْيَى بْنُ عَبْدِ اللَّهِ ، عَنْ أَبِي مَاجِدٍ الْحَنَفِيِّ ، عَنْ ابْنِ مَسْعُودٍ رضِيَ اللَّهُ عَنْهُ قالَ : بَيْنَمَا نَحْنُ فِي الْمَسْجِدِ قُعُوداً مَعَ ابْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ ، إِذْ أَقْبَلُوا بِجَفْنَةٍ وَقُلَّةٍ من مَاءٍ من بَابِ الْفِيلِ نَحْوَنَا ، فَقَالَ ابْنُ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ : إِنِّي لَأَرَاكُمْ تُرَادُونَ بِهذِهِ ، فَقَالَ رَجُلٌ من الْقَوْمِ : أَجَلْ يَا أَبَا عَبْدِ الرَّحْمَنِ ، مَأْدُبَةٌ كَانَتْ فِي الْحَيِّ . فَوُضِعَتْ مِنْهَا وَشَرِبَ مِنَ الْمَاءِ ، ثُمَّ صَبَّ عَلَى يَدَيْهِ فَغَسَلَهُمَا ، وَمَسَحَ وَجْهَهُ وَ ذِرَاعَيْهِ بِبَلَلِ يَدَيْهِ ، ثُمَّ قَالَ : هَذَا وُضُوءُ مَنْ لَمْ يُحْدِثْ .

19. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Yaḥyā ibn ʿAbdullāh narrated to us that Abū Mājid al-Ḥanafī said about ʿAbdullāh ibn Masʿūd ؓ, “Once while we were seated in the mosque[85] with Ibn Masʿūd ؓ, they came towards us with a bowl and a jug of water from the Door of the Elephant.[86] Ibn Masʿūd ؓ said, ‘I think that you are going around[87] with this [food]?’ One of the men of that party said, ‘Yes, Abū ʿAbd ar-Raḥmān,[88] there was a banquet[89] in the neighbourhood.’ So it was put down[90] and he ate some of it and drank some of the water. Then he poured some over his hands and washed them, wiped his face and arms with his damp hands and said, ‘This is the *wuḍū’*[91] for someone who has not nullified his *wuḍū’*.’”’”[92]

قَالَ مُحَمَّدٌ : وَهُوَ قَوْلُ أَبِي حَنِيفَةَ وَبِهِ نَأْخُذُ ، لَا بَأْسَ بِالْوُضُوءِ فِي الْمَسْجِدِ إِذَا كَانَ
مِن غَيْرِ قَذَرٍ .

Muḥammad said, “This is the verdict of Abū Ḥanīfah, and we adhere to it. There is no harm[93] in washing (*wuḍū’*) in the mosque if it is not because of something impure.”

◆

بَابُ مَا يَنْقُضُ الْوُضُوءَ مِن الْقُبْلَةِ وَالْقَلْسِ

5. WHAT OF KISSING AND VOMITING BREAKS *WUḌŪ’*

٢٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا قَلَسْتَ مِلْأَ فِيكَ
فَأَعِدْ وُضُوئَكَ وَإِذَا كَانَ أَقَلَّ مِن مِّلْإِ فِيكَ ؛ فَلَا تُعِدْ وُضُوئَكَ .

20. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If you retch[94] so much as to fill your mouth then repeat your *wuḍū’*, but if it is less than what fills your mouth do not repeat your *wuḍū’*.’”[95]

قَالَ مُحَمَّدٌ : وَهَذَا قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ وَبِهِ نَأْخُذُ .

Muḥammad said, “This is the verdict of Abū Ḥanīfah, to which we adhere.”

٢١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يَقْدُمُ من سَفَرٍ ،
فَتُقَبِّلُهُ خَالَتُهُ ، أَوْعَمَّتُهُ ، أَو امْرَأَةٌ مِّمَّن يَحْرُمُ عَلَيْهِ نِكَاحُهَا ، قَالَ : لا يَجِبُ عَلَيْهِ الْوُضُوءُ
إِذَا قَبَّلَ من يَحْرُمُ عَلَيْهِ نِكَاحُهَا ، وَلَكِنْ إِذَا قَبَّلَ مَن يَحِلُّ لَهُ نِكَاحُهَا ؛ وَجَبَ عَلَيْهِ
الْوُضُوءُ ، وَهُوَ بِمَنزِلَةِ الْحَدَثِ .

21. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who returns from a journey[96] and his

maternal or paternal aunt or someone whom it would be forbidden[97] for him to marry kisses him ‘He is not obliged to do *wuḍū’* if someone whom he is forbidden to marry kisses him, but if someone whom it is permissible for him to marry kisses him then he is obliged to do *wuḍū’*, and it is of the same status as other matters which nullify *wuḍū’* (*ḥadath*).”[98] [99]

قَالَ مُحَمَّدٌ : وَهَذَا قَوْلُ إِبْرَاهِيمَ ، وَلَسْنَا نَأْخُذُ بِهَذَا ، وَلَا نَرَى فِي الْقُبْلَةِ وُضُوءاً عَلَى حَالٍ، إِلَّا أَنْ يُمْذِيَ فَيَجِبُ عَلَيْهِ لِلْمَذْيِ الْوُضُوءُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ .

Muḥammad said, “This is the verdict of Ibrāhīm, but we do not adhere to this, and we do not think that *wuḍū’* must be done for kissing in any case except for when someone emits pre-ejaculatory fluid,[100] for then it becomes obligatory because of the pre-ejaculatory fluid. That is the verdict of Abū Ḥanīfah.”

◆

بَابُ الْوُضُوءِ مِن مَسِّ الذَكَرِ

6. PERFORMING *WUḌŪ’* BECAUSE OF HAVING TOUCHED THE PENIS

٢٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ رَضِيَ اللَّهُ عَنْهُ فِي مَسِّ الذَّكَرِ أَنَّهُ قَالَ : مَا أُبَالِي أَمَسَسْتُهُ أَمْ طَرَفَ أَنْفِي .

22. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿAlī ibn Abī Ṭālib said concerning touching the penis, ‘I do not care whether I have touched it or the end of my nose.’”[101] [102]

قَالَ مُحَمَّدٌ : وَهُوَ قَوْلُ أَبِي حَنِيفَةَ وَبِهِ نَأْخُذُ .

Muḥammad said, “This is the verdict of Abū Ḥanīfah, to which we adhere.”[103]

٢٣- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّ ابْنَ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ سُئِلَ عَنْ الْوُضُوءِ من مَسِّ الذَّكَرِ فَقَالَ : إِنْ كَانَ نَجِساً فَاقْطَعْهُ ، يَعْنِي أَنَّهُ لَا بَأْسَ بِهِ .

23. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that Ibn Masʿūd ﵁ was asked about performing *wuḍū’* because of having touched the penis and he said, ‘If it is so dirty, cut it off,’ meaning that there is no harm in it.”[104] [105]

٢٤- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّ سَعْدَ بْنَ أَبِي وَقَّاصٍ رَضِيَ اللَّهُ عَنْهُ مَرَّ بِرَجُلٍ يَغْسِلُ ذَكَرَهُ فَقَالَ: مَا تَصْنَعُ ؟ وَيْحَكَ، إِنَّ هَذَا لَمْ يُكْتَبْ عَلَيْكَ .

24. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that Saʿd ibn Abī Waqqāṣ ﵁ passed by a man washing his penis and asked, ‘What are you doing?[106] Woe to you! This has not been made obligatory upon you.’”[107]

قَالَ مُحَمَّدٌ : وَغَسْلُهُ أَحَبُّ إِلَيْنَا إِذَا بَالَ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ .

Muḥammad said, “And washing it is preferable to us[108] if one urinates, and that is the verdict of Abū Ḥanīfah.”

بَابُ مَا لَا يُنَجِّسُهُ شَيْءٌ الْمَاءُ وَالْأَرْضُ وَالْجُنُبُ وَغَيْرُ ذَلِكَ

7. THAT WHICH NOTHING POLLUTES: WATER, THE EARTH, THE PERSON IN NEED OF *GHUSL* BECAUSE OF SEXUAL RELATIONS,[109] ETC.

٢٥– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ: حَدَّثَنَا إِبْرَاهِيمُ بْنُ أَبِي الْهَيْثَمِ عَنِ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُ قَالَ : أَرْبَعَةٌ لَا يُنَجِّسُهَا شَيْءٌ : الْجَسَدُ ، وَ الثَّوْبُ ، وَ الْمَاءُ ، وَالْأَرْضُ .

25. Muḥammad said, “Abū Ḥanīfah informed us, ‘Al-Haytham ibn Abī’l-Haytham narrated to us that Ibn ʿAbbās ؓ said, “There are four things which nothing[110] pollutes: the body, clothing, water and the earth.”’”[111]

قَالَ مُحَمَّدٌ : وَ تَفْسِيرُ ذَلِكَ عِنْدَنَا أَنَّ ذَلِكَ إِذَا أَصَابَهُ الْقَذَرُ فَغَسَلَ وَذَهَبَ ذَلِكَ عَنْهُ ، فَلَمْ يَحْمِلْ قَذَراً ، وَإِنَّمَا مَعْنَاهُ فِي الْمَاءِ إِذَا كَانَ كَثِيراً أَوْ جَارِياً إِنَّهُ لَا يَحْمِلُ خَبَثاً .

Muḥammad said, “The explanation of that according to us is that when something dirty strikes something[112] and one washes it, it[113] departs from it,[114] and so it doesn’t carry[115] the filth.[116] With respect to water it only means that when there is a great deal of it or it is flowing, then it doesn’t carry impurity.”[117]

٢٦– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ كَانَ يُخْرِجُ رَأْسَهُ مِنَ الْمَسْجِدِ ؛ وَهُوَ مُعْتَكِفٌ ، فَتَغْسِلُهُ عَائِشَةُ رَضِيَ اللَّهُ عَنْهَا ؛ وَهِيَ حَائِضٌ .

26. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm[118] that the Messenger of Allah ﷺ used to put his head out of the mosque while he was in *iʿtikāf* seclusion, and that ʿĀ’ishah ؓ would wash it while she was in her menstrual period.”[119]

قَالَ مُحَمَّدٌ وَبِهَذَا نَأْخُذُ ، لَا نَرَى بِهِ بَأْساً ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere to this and we see no harm in it, and it is the verdict of Abū Ḥanīfah.”

٢٧– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بَيْنَمَا هُوَ يَمْشِي إِذْ عَرَضَ لَهُ حُذَيْفَةُ بْنُ الْيَمَانِ رَضِيَ اللَّهُ عَنْهُ ، فَاعْتَمَدَ عَلَيْهِ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ، فَأَخَّرَ حُذَيْفَةُ رَضِيَ اللَّهُ عَنْهُ يَدَهُ، فَقَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: مَالَكَ؟ فَقَالَ : يَا رَسُولَ اللَّهِ ! إِنِّي جُنُبٌ ، فَقَالَ: إِنَّ الْمُؤْمِنَ لَيْسَ بِنَجِسٍ .

27. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm[120] that while the Messenger of Allah ﷺ was walking,[121] Ḥudhayfah ibn al-Yamān ؓ appeared before him. The Prophet ﷺ made to shake his hand, but Ḥudhayfah ؓ held his hand back. The Prophet ﷺ said, ‘What is wrong with you?’[122] He answered, ‘Messenger of Allah, I am in need of a *ghusl* because of sexual relations.’ He said, ‘The person who has *īmān*[123] is not impure.’”[124]

قَالَ مُحَمَّدٌ : وَبِحَدِيثِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ نَأْخُذُ ، لَا نَرَى بِمُصَافَحَةِ الْجُنُبِ بَأْساً ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ .

Muḥammad said, “We adhere to the hadith of the Messenger of Allah ﷺ. We see no harm[125] in shaking hands with someone in need of a *ghusl* because of sexual relations, and that is the verdict of Abū Ḥanīfah.”

بَابُ الْوُضُوءِ لِمَنْ بِهِ قُرُوحٌ أَوْ جُدَرِيٌّ أَوْ جِرَاحٌ

8. *WUḌŪ’* FOR WHOEVER HAS A WOUND OR SMALLPOX

٢٨– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الْمَرِيضِ لَا يَسْتَطِيعُ الْغُسْلَ مِنَ الْجَنَابَةِ ، أَوِ الْحَائِضِ، قَالَ : يَتَيَمَّمُ .

28. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning someone who is so sick that he [or she] is unable[126] to perform *ghusl* after sexual relations or for [the end of the] menstrual period, ‘They should do *tayammum*.’”[127]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere to this, and it is the verdict of Abū Ḥanīfah.”

٢٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ أَنَّ الْمَرِيضَ الْمُقِيمَ فِي أَهْلِهِ ، الَّذِي لَا يَسْتَطِيعُ مِن الْجُدَرِيِّ وَالْجِرَاحَةِ الَّتِي يُتَّقَى عَلَيْهَا الْمَاءُ ، إِنَّهُ بِمَنْزِلَةِ الْمُسَافِرِ الَّذِي لَا يَجِدُ الْمَاءَ ، يُجْزِئُهُ التَّيَمُّمُ .

29. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm that the sick person who is resident[128] and living with his family, who is not able [to take a *ghusl* or do *wuḍū’*] because of smallpox or a wound and for whom water is to be guarded against, has the status of the traveller who cannot find water, for whom *tayammum* suffices.’”[129]

قَالَ مُحَمَّدٌ : هَذَا قَوْلُ أَبِي حَنِيفَةَ ، وَبِهِ نَأْخُذُ .

Muḥammad said, “This is the verdict of Abū Ḥanīfah, to which we adhere.”

٣٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ إِذَا اغْتَسَلَ مِن الْجَنَابَةِ ، قَالَ : يَمْسَحُ عَلَى الْجَبَائِرِ .

30. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man[130] taking a *ghusl* because of sexual relations, ‘He should wipe over the splints.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَإِنْ كَانَ يَخَافُ عَلَيْهِ مِن مَسْحِهِ عَلَى الْجَبَائِرِ تَرَكَ ذَلِكَ أَيْضاً وَ أَجْزَاهُ وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere to that. If he fears the effects of wiping over the splints he will also give that up[131] and it suffices him, and that is the verdict of Abū Ḥanīfah.”

◆

بَابُ التَّيَمُّمِ

9. *TAYAMMUM*[132]

٣١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ :حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ فِي التَّيَمُّمِ قَالَ : تَضَعُ رَاحَتَيْكَ فِي الصَّعِيدِ فَتَمْسَحُ وَجْهَكَ ، ثُمَّ تَضَعُهُمَا ثَانِيَةً ، فَتَنْفُضُهُمَا ، فَتَمْسَحُ يَدَيْكَ وَذِرَاعَيْكَ إِلَى الْمِرْفَقَيْنِ .

31. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us that Ibrāhīm said concerning *tayammum*, ‘You place[133] your palms on clean soil then wipe your face, and then you place them a second time and shake them to remove the dust and wipe your hands and your forearms up to the elbows.’”[134]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَنَرَى مَعَ ذَلِكَ أَنْ يَنْفُضَ يَدَيْهِ فِي كُلِّ مَرَّةٍ مِن قَبْلِ أَنْ يَمْسَحَ وَجْهَهُ وَذِرَاعَيْهِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere to that, and we think[135] also that one should shake the hands to remove dust each time, before wiping the face and the forearms. That is the verdict of Abū Ḥanīfah.”

٣٢– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا تَيَمَّمَ الرَّجُلُ فَهُوَ عَلَى تَيَمُّمِهِ مَا لَمْ يَجِدِ الْمَاءَ أَوْ يُحْدِثْ .

32. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Whenever a man does *tayammum* he remains in the condition

of *tayammum* as long as he does not find water or do something that voids his *tayammum*.’”[136]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah.”

٣٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ أَنَّهُ قَالَ : أَحَبُّ إِلَيَّ إِذَا تَيَمَّمَ أَنْ يَبْلُغَ الْمِرْفَقَيْنِ .

33. Muḥammad said, “Abū Ḥanīfah informed us, ‘Ḥammād narrated to us that Ibrāhīm said, “It is preferable to us[137] that when one does *tayammum* one does it up to the elbows.”’”[138]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَلَا يُجْزِئُهُ التَّيَمُّمُ حَتَّى يَتَيَمَّمَ إِلَى الْمِرْفَقَيْنِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ .

Muḥammad said, “We adhere to that; *tayammum* is not valid until one does it up to the elbows, and that is the verdict of Abū Ḥanīfah &.”

◆

بَابُ أَبْوَالِ الْبَهَائِمِ وَغَيْرِهَا

10. THE URINE OF ANIMALS[139] AND OTHERS

٣٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا رَجُلٌ من أَهْلِ الْبَصْرَةِ عَنِ الْحَسَنِ الْبَصْرِيِّ أَنَّهُ قَالَ : لَا بَأْسَ بِبَوْلِ كُلِّ ذَاتِ كَرِشٍ .

34. Muḥammad said, “Abū Ḥanīfah informed us, ‘A man[140] from Basra narrated to us that al-Ḥasan al-Baṣrī[141] said, “There is no harm[142] in the urine of any ruminant.”’”[143] [144]

قَالَ مُحَمَّدٌ : وَكَانَ أَبُو حَنِيفَةَ يَكْرَهُهُ ، وَكَانَ يَقُولُ: إِذَا وَقَعَ فِي وَضُوءٍ أَفْسَدَ الْوَضُوءَ ، وَإِنْ أَصَابَ الثَّوْبَ مِنْهُ شَيْءٌ كَثِيرٌ ثُمَّ صَلَّى فِيهِ أَعَادَ الصَّلَوةَ .

Muḥammad said, “Abū Ḥanīfah used to disapprove of it,[145] and he used to say, ‘If it falls in water used for *wuḍū’*, it invalidates *wuḍū’* [done with that water], and if a great deal[146] of it falls on clothing in which someone then prays, he must repeat[147] the prayer.’”

قَالَ مُحَمَّدٌ : وَلَا أَرَى بِهِ بَأْساً ، لَا يُفْسِدُ مَاءً وَلَا وَضُوءاً وَلَا ثَوْبًا .

Muḥammad said, “I see no harm in it,[148] and it does not render water, *wuḍū’* water or clothing impure.”

٣٥- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يُصِيبُ ثَوْبَهُ بَوْلُ الصَّبِيِّ ، قَالَ : إِذَا لَمْ يَكُنْ أَكَلَ وَشَرِبَ: أَجْزَأَكَ أَنْ تَصُبَّ الْمَاءَ صَبّاً .

35. Muḥammad said, “Abū Ḥanīfah narrated to us from Ḥammād that Ibrāhīm said concerning a man upon whose clothing a [male] infant’s urine[149] falls, ‘If he hasn’t eaten [solid food] and drunk [something other than his mother’s milk], then it suffices if you pour[150] some water.’”[151]

قَالَ مُحَمَّدٌ : وَأَعْجَبُ ذَلِكَ أَنْ تَغْسِلَهُ غَسْلاً ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “The more pleasing of that is that one washes it,[152] and that is the verdict of Abū Ḥanīfah.”

٣٦- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يَبُولُ قَائِمًا وَمَعَهُ دَرَاهِمُ فِيهَا كِتَابٌ يَعْنِي الْقُرْآنَ ، فَكَرِهَهُ وَقَالَ: تَكُونُ فِي هَمْيَانٍ أَوْ مَصْرُورَةٍ أَحْسَنُ .

36. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm concerning a man who urinates standing[153] while he has dirhams [in his hand] on which is writing, meaning some Qur’ān, and he

disapproved of it and said, “It would be better if they were in a pouch or a pouch whose neck is tied.”’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، نَكْرَهُ أَنْ يُبَاشِرَهَا بِيَدَيْهِ وَفِيهَا الْقُرْآنُ. وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere to this, and we disapprove of him grasping them in his hand when there is some Qur’ān on them, and that is the verdict of Abū Ḥanīfah.”

٣٧– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ: حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يَبُولُ قَائِمًا قَالَ: اِنْتَهَى النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ إِلَى سُبَاطَةِ قَوْمٍ وَمَعَهُ أَصْحَابُهُ، فَفَحَجَ، ثُمَّ بَالَ قَائِمًا ، فَقَالَ بَعْضُ أَصْحَابِهِ : حَتَّى رَأَيْنَا أَنْ تَفَحُّجَهُ شَفَقًا من الْبَوْلِ.

37. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm[154] said concerning a man who urinates standing, ‘The Prophet ﷺ went to the rubbish tip of some people with his Companions and he spread his legs wide apart and then urinated standing.[155] One of his Companions said, “So much so that we thought that his spreading his legs wide apart was for fear of the urine.”’”[156]

بَابُ الْاسْتِنْجَاءِ

11. CLEANSING THE PRIVATE PARTS AFTER GOING TO THE TOILET

٣٨ – مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ: حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ أَنَّ الْمُشْرِكِينَ عَلَى عَهْدِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَقُوا الْمُسْلِمِينَ فَقَالُوا : نَرَى أَنَّ صَاحِبَكُمْ يُعَلِّمُكُمْ كَيْفَ تَأْتُونَ الْخَلَاءَ – اسْتِهْزَاءً بِهِمْ – فَقَالَ الْمُسْلِمُونَ : نَعَمْ. فَسَأَلُوهُمْ، فَقَالُوا : أَمَرَنَا أَنْ لَا نَسْتَقْبِلَ الْقِبْلَةَ بِفُرُوجِنَا، وَلَا نَسْتَنْجِيَ بِأَيْمَانِنَا، وَلَا نَسْتَنْجِيَ بِعَظْمٍ وَلَا بِرَجِيعٍ، وَ أَنْ نَسْتَنْجِيَ بِثَلَاثَةِ أَحْجَارٍ.

38. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm that those who associate partners with Allah (*mushrikūn*) at the time of the Messenger of Allah ﷺ met the Muslims and said, “We see that your companion[157] teaches you how you should go to the toilet,” making fun of them. So the Muslims said, “Yes.”[158] They [the *mushrikūn*] asked them [about that] and they [the Companions] said, “He told us[159] not to face the *qiblah* with our private parts, not to cleanse our private parts with our right hands,[160] not to cleanse our private parts with bones or dung, and that we should cleanse ourselves with three[161] stones.”’”[162]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ، وَالْغَسْلُ بِالْمَاءِ فِي الِاسْتِنْجَاءِ أَحَبُّ إِلَيْنَا، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ.

Muḥammad said, “We adhere to this, but washing with water in the act of cleansing the private parts is preferable[163] to us, and that is the verdict of Abū Ḥanīfah.”

◆

بَابُ مَسْحِ الْوَجْهِ بَعْدَ الْوُضُوءِ بِالْمَنْدِيلِ وَقَصِّ الشَّارِبِ

12. WIPING THE FACE AFTER *WUḌŪ’* WITH A HANDKERCHIEF AND TRIMMING THE MOUSTACHE

٣٩– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يَتَوَضَّأُ فَيَمْسَحُ وَجْهَهُ بِالثَّوْبِ ، قَالَ: لَا بَأْسَ. ثُمَّ قَالَ : أَرَأَيْتَ لَوِ اغْتَسَلَ فِي لَيْلَةٍ بَارِدَةٍ ، أَيَقُومُ حَتَّى يَجِفَّ؟

39. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who performs *wuḍū’* and then wipes his face with a cloth, ‘There is no harm in it.’[164] Then he said, ‘What do you think of the case in which he washes on a cold night: should he stand until he is dry?’”[165] [166]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَلَا نَرَى بِذَلِكَ بَأْساً ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere to that, and we see no harm in it, and it is the verdict of Abū Ḥanīfah.”

٤٠– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ ، فِي الرَّجُلِ يَقُصُّ أَظْفَارَهُ أَوْ يَأْخُذُ من شَعْرِهِ ، قَالَ : يُمِرُّ عَلَيْهِ الْمَاءَ .

40. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us that Ibrāhīm said concerning a man who cuts his nails or trims his hair [after having done *wuḍū’*], “Let him pass water over it.”’”[167]

قَالَ مُحَمَّدٌ : وَسَمِعْتُ أَبَا حَنِيفَةَ يَقُولُ: رُبَّمَا قَصَصْتُ أَظْفَارِي وَأَخَذْتُ من شَعْرِي ، وَلَمْ أُصِبْهُ الْمَاءَ حَتَّى أُصَلِّيَ ،

Muḥammad said, “I heard Abū Ḥanīfah say, ‘Sometimes I cut my nails, trim my hair and do not pour water [over them] again until I pray.’”

قَالَ مُحَمَّدٌ : وَبِهَذَا نَأْخُذُ ، وَهُوَ قَوْلُ الْحَسَنِ الْبَصْرِيِّ .

Muḥammad said, “We adhere to this and it is the verdict of al-Ḥasan al-Baṣrī.”

بَابُ السِّوَاكِ

13. THE TOOTH STICK

٤١- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا أَبُو عَلِيٍّ عَنْ تَمَّامٍ عَنْ جَعْفَرِ بْنِ أَبِي طَالِبٍ رَضِيَ اللَّهُ عَنْهُ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنَّهُ قَالَ : مَا لِي أَرَاكُمْ تَدْخُلُونَ عَلَيَّ قُلْحًا ، اِسْتَاكُوا ، وَلَوْ لَا أَنْ أَشُقَّ عَلَى أُمَّتِي لَأَمَرْتُهُمْ أَنْ يَسْتَاكُوا عِنْدَ كُلِّ صَلَاةٍ .

41. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Abū ʿAlī narrated to us from Tamām[168] from Jaʿfar ibn Abī Ṭālib that the Prophet ﷺ said, “How is it that I see you coming to me with yellow teeth?[169] Use the tooth stick. If it were not that I would cause my community hardship, I would tell them to use the tooth stick for every prayer.”’”[170] [171]

قَالَ مُحَمَّدٌ : وَالسِّوَاكُ عِنْدَنَا مِنَ السُّنَّةِ ، لَا يَنْبَغِي أَنْ يُتْرَكَ .

Muḥammad said, “The tooth stick is, in our view, a part of the Sunnah[172] and ought not to be abandoned.”

٤٢- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : يَسْتَاكُ الْمُحْرِمُ مِنَ الرِّجَالِ وَالنِّسَاءِ .

42. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Both men and women in *iḥrām*[173] can use the tooth stick.’”[174]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah.”

◆

img class="middle" src="../images/pg27.jpg" alt="image" />

14. A WOMAN’S *WUḌŪ’* AND WIPING OVER HER HEAD-COVERING

٤٣- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : تَمْسَحُ الْمَرْأَةُ عَلَى رَأْسِهَا عَلَى الشَّعْرِ ، وَلا يُجْزِئُهَا أَنْ تَمْسَحَ عَلَى خِمَارِهَا .

43. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Women wipe the hair on their heads,[175] and it is not enough to wipe over their head-coverings.’”[176]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah.”

٤٤- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ قَالَ : لا يُجْزِئُ الْمَرْأَةَ أَنْ تَمْسَحَ صُدْغَيْهَا حَتَّى تَمْسَحَ رَأْسَهَا كَمَا يَمْسَحُ الرَّجُلُ

44. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us that Ibrāhīm said, “It is not enough for a woman to wipe her temples[177] alone, she must also wipe her head as men do.”’”

قَالَ مُحَمَّدٌ : وَأَمَّا نَحْنُ ؛ فَنَقُولُ : إِذَا مَسَحَتْ مِن ذَلِكَ مِقْدَارَ ثَلاثِ أَصَابِعَ أَجْزَأَهَا ، وَأَحَبُّ إِلَيْنَا أَنْ تَمْسَحَ كَمَا يَمْسَحُ الرَّجُلُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “As for us,[178] we say that if she wipes the site of her hair and wipes that to the extent of three[179] fingers then it suffices her, but we prefer for her to wipe [the entire head] in the same way as men do, and that is the verdict of Abū Ḥanīfah.”

◆

بَابُ الْغُسْلِ مِن الْجَنَابَةِ

15. *GHUSL* BECAUSE OF SEXUAL RELATIONS (*JANĀBAH*)[180]

٤٥– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ :حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ، عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا قَالَت: إِذَا الْتَقَى الخِتَانَانِ، وَجَبَ الْغُسْلُ.

45. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm that ʿĀ’ishah, the Mother of the Mu’minūn, ؓ said, “When the two circumcised parts[181] meet, *ghusl* becomes obligatory.”’”[182] [183]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ.

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah.”

٤٦– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا أَبُو إِسْحَاقَ السَّبِيعِيّ عَنِ الأَسْوَدِ بْنِ يَزِيدَ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ رَضِيَ اللَّهُ عَنْهَا قَالَتْ: كَانَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يُصِيبُ من أَهْلِهِ من أَوَّلِ اللَّيلِ، فَيَنَامُ وَلَا يُصِيبُ مَاءً، فَإِنِ اسْتَيقَظَ مِنْ آخِرِ اللَّيْلِ؛ عَادَ، وَاغْتَسَلَ.

46. Muḥammad said, “Abū Ḥanīfah informed us, ‘Abū Isḥāq as-Sabīʿī narrated to us from al-Aswad ibn Yazīd that ʿĀ’ishah, the Mother of the Mu’minūn, ؓ said, “The Messenger of Allah ﷺ would make love[184] to his wife at the beginning of the night and sleep without touching water.[185] Then if he woke up in the latter part of the night he would do it again and take a *ghusl*.”’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ. لا بَأْسَ إِذَا أَصَابَ الرَّجُلُ أَهْلَهُ أَنْ يَنَامَ قَبْلَ أَنْ يَغْتَسِلَ أَوْ يَتَوَضَّأَ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ.

Muḥammad said, “We adhere to this. There is no harm[186] when a man makes love to his wife if he sleeps before taking a *ghusl* or doing *wuḍū’*, and that is the verdict of Abū Ḥanīfah.”

٤٧ – مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا عَوْنُ بْنُ عَبْدِ اللَّهِ عَنِ الشَّعْبِيِّ عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ رَضِيَ اللَّهُ عَنْهُ أَنَّهُ قَالَ: يُوجِبُ الصَّدَاقَ. وَيَهْدِمُ الطَّلَاقَ وَيُوجِبُ الْعِدَّةَ، وَلَا يُوجِبُ صَاعاً مِنْ مَاءٍ؟ .

47. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘ʿAwn ibn ʿAbdullāh narrated to us from ash-Shaʿbī that ʿAlī ibn Abī Ṭālib رضي الله عنه said, “It [the meeting of the two circumcised parts] makes the payment of the dowry obligatory.[187] It invalidates divorce.[188] It requires the [observance of the] ʿ*iddah* period[189] [after divorce or being widowed], and [yet] it doesn’t obligate[190] [the use of] a *ṣā*ʿ[191] measure of water?”’”[192] [193]

قَالَ مُحَمَّدٌ : إِذَا الْتَقَى الْخِتَانَانِ وَجَبَ الْغُسْلُ ، أَنْزَلَ أَوْ لَمْ يُنْزِلْ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “When the two circumcised parts meet, then *ghusl* is obligatory whether or not one ejaculates, and that is the verdict of Abū Ḥanīfah.”

◆

بَابُ غُسْلِ الرَّجُلِ وَالْمَرْأَةِ مِنْ إِنَاءٍ وَاحِدٍ مِنَ الْجَنَابَةِ

16. A MAN AND WOMAN DOING *GHUSL* BECAUSE OF INTERCOURSE FROM A SINGLE VESSEL

48. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm from ʿĀ’ishah, the Mother of the Mu’minūn, رضي الله عنها that the Messenger of Allah ﷺ would take a *ghusl*[194] with one of his wives[195] from a single vessel both of them contending for the water at the same time.’”[196] [197]

Muḥammad said, “We adhere to this, and we see no harm[198] in the wife taking her *ghusl* with the husband, whether she begins before him or he begins before her, and that is the verdict of Abū Ḥanīfah.”

◆

17. THE *GHUSL* OF A WOMAN WITH CHRONIC MENSTRUAL BLEEDING[199] AND OF THE WOMAN WHO IS MENSTRUATING

49. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a woman with chronic menstrual bleeding (*mustaḥāḍah*), ‘She leaves[200] *Ẓuhr* until the end of its time, takes a *ghusl* and prays *Ẓuhr*, and then prays *ʿAṣr*.[201] Then she waits until when the time of *Maghrib* comes but does not pray until the end of its time, takes a *ghusl* and prays *Maghrib* and *ʿIshā’*, [doing that] until she is over [her chronic menstrual bleeding].’”[202]

Muḥammad said, “We do not adhere to this, but we adhere to the other hadith[203] that she makes *wuḍū’* for the time of every prayer and she may pray up until the next [prayer] time.[204] In our view, she has only[205] one *ghusl* to make when the [customary number of] days of her period have passed, and that is the verdict of Abū Ḥanīfah.”

50. Muḥammad said, “Ayyūb ibn ʿUtbah the Qāḍī of al-Yamāmah informed us from Yaḥyā ibn Abī Kathīr from Abū Salamah ibn ʿAbd ar-Raḥmān ibn ʿAwf رضي الله عنه that Umm Ḥabībah bint Abī Sufyān[206] رضي الله عنها asked the Messenger of Allah ﷺ about the situation of a woman with chronic menstrual bleeding, and he said, ‘She should take a *ghusl*[207] when the [customary number of] days of her period have passed and then do *wuḍū’* for every prayer and pray.’”[208] [209]

Muḥammad said, “We adhere to this hadith.”

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18. THE WOMAN WHO MENSTRUATES DURING [THE TIME OF] THE PRAYER

51. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a woman begins to menstruate during the time of a prayer she doesn’t have to[210] make up for that prayer. When she becomes pure again during the time of a prayer, she should pray.’”[211]

Muḥammad said, “We adhere to this[212] and it is the verdict of Abū Ḥanīfah.”

52. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘When a woman is in need of a *ghusl* because of sexual relations and her period begins, she does not have to[213] take a *ghusl*, because the menstruation she has is graver than the condition of needing a *ghusl* because of sexual relations.’”

Muḥammad said, “We adhere to this. She does not have to take a *ghusl* until she is again free of her menstruation, at which time she takes a *ghusl* once for both of them together [the sexual relations and for the end of her menstruation]. That is the verdict of Abū Ḥanīfah.”

53. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a woman’s period ends during the time of a prayer, but she

does not take a *ghusl* until the time of the prayer has gone, even though she was busy performing the *ghusl*, she does not have to make up that prayer.'"

Muḥammad said, "We adhere to this. If the bleeding ceases[214] at a time in which she is not able to perform her *ghusl* before the departure of the time [of the prayer], she does not have to repeat this prayer. That is the verdict of Abū Ḥanīfah, and Allah knows best."

19. WOMEN WHO HAVE GIVEN BIRTH AND PREGNANT WOMEN WHO EXPERIENCE BLEEDING

54. Muḥammad said, "Abū Ḥanīfah informed us saying, 'Ḥammād narrated to us that Ibrāhīm said, "If the woman who has just given birth hasn't got a definite time[215] [when her bleeding ordinarily stops], then let her wait for the number of days [which are usual] for women[216] [of her family or of her time]."'"

Muḥammad said, "We do not adhere to this,[217] but she is counted as being in this condition for up to[218] forty days. If [her bleeding] goes beyond that, then she takes a *ghusl* and performs *wuḍū'* for every prayer and she prays, and that is the verdict of Abū Ḥanīfah."

55. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, 'If a pregnant woman sees some blood, she is not menstruating,[219] so let her pray[220] and fast, and let her husband make love to her. She may do all of the things that women who are not in their menstrual periods do.'"[221]

[Muḥammad said], "That is the verdict of Abū Ḥanīfah."

image

56. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘The pregnant woman always prays[222] until she has given birth even if she sees blood, because pregnancy is not menstruation.[223] If she makes a bequest, and then has a painful delivery[224] and dies, then the bequest comes out of the third [of her property which she may leave as a bequest to people or causes other than her heirs].’”[225] [226]

image

Muḥammad said, “”We adhere to all of this and it is the verdict of Abū Ḥanīfah image.”

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image

20. A WOMAN WHO EXPERIENCES[227] IN DREAM[228] WHAT A MAN EXPERIENCES

image

57. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm that Umm Sulaym bint Milḥān رضي الله عنها came to the Prophet ﷺ to ask him about a woman experiencing in dream what men experience. The Prophet ﷺ said, “If any of you women experience what men experience, let her take a *ghusl*.”’”[229] [230]

image

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

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image

21. THE CALL TO PRAYER

image

58. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us that Ibrāhīm said, “There is no harm[231] in the *mu’adhdhin* making the call to prayer when he is not in *wuḍū’*.”’”[232]

image

Muḥammad said, “We adhere to this, and we see no harm in it,[233] but we disapprove of him making the call to prayer while in need of a *ghusl* because of sexual relations.”

image

59. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm that he said about the *mu’adhdhin* talking during his call to prayer, “I do not tell him to do it[234] and I do not forbid him.”’”[235]

image

Muḥammad said, “As for us, we think that he should not do it, but that if he does do it, it does not invalidate[236] his call to prayer, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

image

60. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that he [Ḥammād] said, ‘I asked him about *tathwīb*[237] [summoning a second time] and he said, “It is a part of that which people[238] have innovated, but it is one of the good things[239] they have innovated,” and he mentioned that their *tathwīb*[240] was when the *mu’adhdhin* finished his call to prayer, “Prayer is better than sleep.”’”

image

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.

image

61. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘The end of Bilāl’s call to prayer ؓ was, “Allah is greater,

Allah is greater. There is no god but Allah.”’”[241]

image

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah.”

image

62. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘The call to prayer and the *iqāmah* are [called repeating each phrase] two at a time.’”[242]

image

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

image

63. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ṭalḥah ibn Muṣarrif narrated to us that Ibrāhīm said, “When the *mu’adhdhin* says, ‘Hasten to success,’ people ought to stand[243] and form rows, and then when the *mu’adhdhin* says, ‘Prayer is about to begin,’ the *imam* says the *takbīr*.”’”[244] [245]

image

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him. But if the imam waits until the *mu’adhdhin* finishes his *iqāmah* and then says *takbīr*, there is also no harm in this, and all of that is good.”

image

64. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Women do not have[246] to call to prayer or [call the] *iqāmah*.’”[247]

image

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

22. THE TIMES OF THE PRAYER

65. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that a man came to the Prophet ﷺ to ask him[248] about the time of the prayer, and he told him to attend the prayers[249] with the Messenger of Allah ﷺ. Then he told Bilāl to be early[250] with the prayers [at the beginnings of their times]. On the second day, he told him to delay all of the prayers [to the later parts of their times]. Then he said, ‘Where is the person who asked about the time of the prayer? What is in between these two is the time.’”[251]

Muḥammad said, “We adhere to this. *Maghrib* and the other prayers are the same in this respect in our view, except that we disapprove[252] of delaying it when the sun has set, and that is the verdict of Abū Ḥanīfah.”

66. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿUmar ibn al-Khaṭṭāb ؓ said, ‘Delay *Ẓuhr* until the coolness[253] following the intense heat of Jahannam.’”[254] [255]

Muḥammad said, “*Ẓuhr* is delayed in the summer until it is cooler, but in winter it is prayed when the sun declines from the meridian [at the beginning of its time], and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

67. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Ibn Masʿūd ؓ looked at the sun when it set and said, “This is its decline [*dulūk*].”[256] [257]

23. *GHUSL* ON THE DAY OF JUMUʿAH AND ON THE TWO ʿ*ĪDS*

68. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning the *ghusl* on the day of Jumuʿah, ‘If you take a *ghusl* that is good,[258] but if you leave it that is good.’”[259]

69. Muḥammad said, “Abū Ḥanīfah informed us that Ḥammād said, ‘I saw Ibrāhīm go out to the two ʿ*Īds* without doing *ghusl*.’”

Muḥammad said, “If you take a *ghusl* on the Jumuʿah and the two ʿ*Īds* it is better, but if you leave it there is no harm.”

70. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘We often used to come to the two ʿ*Īds* without having taken a *ghusl*,’ and he said, ‘If you take a *ghusl*, it is good.’”

71. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Abān narrated to us from Abū Naḍrah from Jābir ibn ʿAbdullāh al-Anṣārī from the Prophet ﷺ that he said, “Whoever takes a *ghusl* on the day of Jumuʿah has done well, but whoever does not take a *ghusl* and [suffices himself with *wuḍū’*] it is fine.”’”[260] [261]

Muḥammad said, “We adhere to all of this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

[1] The definition of washing out the mouth comprises all of the mouth, and going to the utmost in it is to make the water reach the head of the throat, which is the Sunnah, except when fasting.

[2] It is to enter water in the nose, and it and the preceding act are both sunnah, and the order in which they are done is sunnah, as is in *al-Badāʿi’*.

[3] Up to the elbows.

[4] It is more appropriate to leave “forwards and backwards” out of the text as is in *Jāmiʿ al-masānīd*. On the basis that it is confirmed [to be a part of the text] then “forwards and backwards” in washing the forearms is to let the water pass and pour it over them from the forepart and the rear, as is the custom when washing the hands from leathern vessels and ewers and the like. It is possible that [forwards and backwards] may be related to wiping the head as is in at-Tirmidhī and others.

[5] Wiping consists of passing the moistened hand over the member [the head].

[6] With two movements by wiping with the hands from front to back and then from back to front again, thus making it twice.

[7] Without there being any disapproval, as is in *Jāmiʿ al-muʿmirāt* from the commentary of aṭ-Ṭaḥāwī, or [it suffices] but is disapproved as is the apparent sense of the words of the dominant majority who count doing it three times as a part of the confirmed (*muʿakkadah*) sunnah.

[8] Either in the second person meaning when “you do it fully” or in the passive sense [as we have translated it]. The word *isbāgh* means perfecting it and doing it fully.

[9] Ibn Abī Shaybah narrated it from ʿUmar (Vol.1 p.17).

[10] Indicating that which is in the tradition of washing the limbs twice, and that which Ḥammād said about washing each limb once being sufficient as long as it is done fully and by which the obligation of *wuḍū’* is discharged, even if there is double reward for washing each limb twice, and the perfection of the Sunnah is in doing it three times.

[11] That was his position and ash-Shaʿbī gave that verdict too, because the forepart of the ears is a part of the face and the rear part of them is a part of the head.

[12] Abū Yūsuf narrated it (p.4).

[13] Meaning that they should be wiped along with the head with its water, as he did not intend by this saying to explain the form [of a human being], but rather to determine the ruling which is that they should be wiped along with the head using the water used for the head, and that is firmly established as having been done by him.

[14] Abū Yūsuf narrated it (p.7) from ʿAbd al-Karīm ibn Abī’l-Mukhāriq from a man from Ibn ʿUmar as a *mawqūf* statement and the man was Nāfiʿ as has been clearly mentioned by ad-Dāraquṭnī. It has also been narrated from Ibn ʿUmar as a *marfūʿ* hadith and has been narrated with a *ṣaḥīḥ* chain of

transmission, as narrated by Ibn Mājah from ʿAbdullāh ibn Zayd and ad-Dāraquṭnī from Ibn ʿAbbās that the Prophet said, “The ears are a part of the head.”

[15] Meaning that “it is preferable and a part of the Sunnah in our view.”

[16] In one edition of the book it is “that we should wipe.”

[17] They differed as to whether the ears should be wiped with the remainder of the water from the head or with new water, and our people took the former position, and Mālik, ash-Shāfiʿī and Aḥmad took the latter.

[18] Meaning that *wuḍū’* in relation to the prayer is like the key in relation to locks, for without *wuḍū’* the prayer is not valid just as a lock cannot be opened without the key, and this is a metaphor for the fact that Allah does not accept prayer without *wuḍū’*.

[19] That is, to say *takbīr*: *Allāhu akbar* (Allah is greater), or *Allāhu’l-akbar* (Allah is the greatest). – Trans.

[20] Here *salām*, which is held to cover all such formulations as *as-salāmu ʿalaykum wa raḥmatullāh* (peace be upon you and the mercy of Allah). – Trans.

[21] In another narration there is that it is not sound (*ṣaḥīḥ*), meaning that a cycle (*rakʿah*) of the prayer in which recitation is obligatory is not completely valid without the Fātiḥah of the Book and a sūrah along with it because of the fact that both of them are incumbent (*wājib*) in it. The hadith indicates that joining a sūrah to the Fātiḥah is incumbent. As for the recitation itself, whether the Fātiḥah or something else, that is obligatory (*farḍ*).

[22] As in most of the narrations, in every two *rakʿahs* there is a greeting, and it is the greeting of the *tashahhud* and the final greeting.

[23] The hadith of Abū Saʿīd has been narrated by at-Tirmidhī in the section on purification in the chapter on “what has been narrated concerning the fact that the key to the prayer is purification,” and by Ibn Mājah in the book on “purification and its sunnahs” in the chapter on “the key to prayer is purification,” and by Ibn Abī Shaybah in the book on “the prayer” in the chapter on “what is the key to prayer?”

[24] Because he has abandoned something incumbent, and thus the prayer is abhorent to the degree of being forbidden (*makrūh taḥrīm*). This expression “he has done badly” denotes being more repugnant than does the term abhorent (*makrūh*) which is what is appropriate here.

[25] And his traditions that are narrated in wordings such as “it has reached us” do have chains of transmission.

[26] The one who asked was Abū’l-ʿĀliyah.

[27] Meaning the Qur’ān, which is what we understand from the “recitation.”

[28] *Imāmuka* “your imām” meaning: which is followed and emulated, because the Qur’ān is what people follow. Possibly, it may also be *amāmaka* meaning “in front of you.”

[29] Meaning that of it which is easy for you whether a little or a lot.

[30] Meaning the domestic donkey; as for the wild donkey it is *ḥalāl* [to eat] and the water it leaves after drinking is pure.

[31] *Lā ba’sa bihi* “there is no harm in it” is predominantly used in cases where one uses it but it would be better not to, which is a proof that what is recommended (*mustaḥabb*) is to do something else, because “harm” (*ba’s*) is severity, but [this expression “there is no harm”] is also used for that which is recommended (*mandūb*).

[32] It means that Ibrāhīm is saying that since the cat is one of the inhabitants of the house and it is permissible to drink water that it leaves, then purification performed with it is also permissible, because Allah, exalted is He, has permitted water and made it inexpensive (*rakhīṣ*) so that fundamental permissibility exists in it and thus there is no need to ask about purification by means of it, which he explained further by his saying in the next footnote.

[33] Meaning that Allah, exalted is He, has not ordered His slaves to use it nor has He forbidden it to them, and so He has left them in the condition that it is fundamentally permitted [in the view of those who take the view that everything is fundamentally permitted unless there is a proof that indicates it is forbidden]. It is possible that the sentence, “And he did not command it...” is part of the statement of Ḥammād or that of Abū Ḥanīfah, meaning, “When I asked Ibrāhīm about using it for purification, he said, ‘Allah, exalted is He, has licensed water, but [Ibrāhīm] has not commanded me nor forbidden me to use it,” or “Ibrāhīm did not command nor forbid Ḥammād to use it.”

[34] Abū Yūsuf narrated the like of it (p.7).

[35] This is a clear declaration that water left over by a cat is pure in the view of Abū Ḥanīfah but that it is contrary to what is most appropriate.

[36] Meaning, deliberately and voluntarily, when there is pure and purifying water, due to the doubt about it from the contradictory nature of the evidence and because of the reasons for assigning the weightiest position with respect to it. So it is not appropriate for anyone to do *wuḍū’* with such water and he should be cautious about it since the soundest position is that there is doubt about its capacity to purify, and that is the verdict of the dominant majority.

[37] Because the water left over by them is pure.

[38] “Non-Arabian horses” (*birdhawn*) are Turkish horses as opposed to Arabian horses.

[39] There is no disagreement about the transmission of wiping over leather socks from the Companions, since each one about whom it has been narrated that he repudiated it has also had it narrated of him that he affirmed it. It is narrated of al-Ḥasan al-Baṣrī that he said, “I saw seventy of

the people of Badr from among the Companions all of whom held the view that one wipes over leather socks.” It is for this reason that Abū Ḥanīfah held the view that it is one of the preconditions of [being one of] the people of the Sunnah and the Community (*Ahl as-sunnah wa’l-Jamāʿah*) and he said, “We give preference to the two Shaykhs (Abū Bakr and ʿUmar, preferring them over all the other Companions) and we love the two who were related through their daughters [to the Prophet image, and they were Abū Bakr and ʿUmar], and we hold the view that one wipes over leather socks.”

[40] The battle of Jalūlā’ took place in 17 AH but some have said both 16 AH and 19 AH. It is the site of Baghdad [i.e., where it was later built].

[41] In a narration from Aḥmad there is, “So I repudiated that action of his,” because wiping over leather socks had not reached him even given the precedence of his being a Companion. The Ḥāfiẓ said, “In this there is that an eminent Companion may have important matters of the *Sharīʿah* hidden from him which others may know. It can also be interpreted that Ibn ʿUmar only repudiated wiping over leather socks while resident but not when travelling.”

[42] Meaning: when you get to Madīnah and meet ʿUmar then ask him about that.

[43] Meaning: after I came to Madīnah from Iraq and after forgetting to ask after ʿUmar, Saʿd came to Madīnah and asked me, “Did you ask the Amīr al-Mu’minīn about wiping over leather socks?” I said, “No.” So we got together with him and at the command of Saʿd I asked him about it.

[44] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.1, p.164, and Abū Yūsuf on p.16.

[45] This is a mistake. The original chain of transmission is Ḥanẓalah from Nabātah al-Juʿfī.

[46] This is the position of Abū Ḥanīfah, ash-Shāfiʿī, and Aḥmad. Mālik said in the well-known transmission from him that there is no specific period of time that one wipes [over leather socks].

[47] The saying of ʿUmar image in *Maʿānī al-āthār*: “Whoever enters his feet [in leather socks] while they are pure” clarifies his saying [here], “While you are pure,” in which what is meant by purity is purity of the feet at the moment of donning [the leather socks], and it also covers both forms [of purity].

[48] Abū Yūsuf narrated it in a shorter form on p.15-16.

[49] When he [ʿAbdullāh ibn ʿUmar] came to Kufa.

[50] As to whether it is permitted when one is resident or not.

[51] This is either in the first person singular: “I wipe,” or in the imperative: “wipe!”

[52] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.1, p. 164.

[53] Abī in the text is a mistake. – Trans.

[54] To Tabūk.

[55] That is, *rūmiyah* and in most narrations from the two shaykhs [al-Bukhārī and Muslim] it was from Shām but there is no contradiction between the two because Shām at that time was under Byzantine rule.

[56] In this the permissibility of wearing tight-fitting clothes is implicit.

[57] There is in another narration that he brought his hand out from underneath the garment and cast the garment over his shoulder.

[58] *idāwah* is a clay vessel used for *wuḍū'*. The definition in Lane's *Arabic English Lexicon* is a leathern waterskin. – Trans.

[59] Muslim narrated it in the book on purification in the chapter on "wiping over leather socks," and in the chapter on "wiping over the forelock and the turban." Abū Yūsuf narrated it from Abū Ḥanīfah from al-Haytham from ʿĀmir from al-Mughīrah ibn Shuʿbah image in a shorter form on p.15.

[60] The person who saw him was Hammām ibn al-Ḥārith and the questioner was either the one who saw him, i.e., Hammām, or Shahr ibn Ḥawshab.

[61] This is an explanatory hadith because some of those who repudiate wiping over leather socks advance the interpretation that the wiping that the Prophet image did over leather socks was before the descent of Sūrat al-Mā'idah, and Jarīr mentioned he saw the Prophet image wiping over leather socks after the revelation of Sūrat al-Mā'idah because his acceptance of Islam was later than its revelation.

[62] Abū Yūsuf narrated it on p.14 and Ibn Abī Shaybah in the *Muṣannaf*, vol.1, p.161.

[63] To Madīnah.

[64] Meaning, he would not remove the leather socks until three days and nights were complete, and it does not mean that he would not remove them after three nights had passed.

[65] Abū Yūsuf narrated the like of it on p.16.

[66] Leather galoshes whose shanks are cut lower than the heels and worn over the leather socks.

[67] Abū Yūsuf narrated it on p.16.

[68] As something incumbent, but you do not have to redo the rest of the *wuḍū'*.

[69] Abū Yūsuf narrated it on p.16.

[70] The dominant majority of the *ʿulamā'* took the position that *wuḍū'* is not broken by eating cooked food, and that is the *madhhab* of Mālik, Abū Ḥanīfah, ash-Shāfiʿī and Aḥmad except that Aḥmad was of the view that one did *wuḍū'* if one ate camel meat specifically. A party took the position that doing *wuḍū'* is incumbent because of the hadith concerning doing *wuḍū'* because of having eaten cooked food. The answer to that is that it is abrogated by the hadith of Jābir who said, "The later of the two commands from the Messenger of Allah image was to give up doing *wuḍū'* because of cooked

food.” Secondly, there is that what is meant by *wuḍū’* (lit. washing) is to wash the mouth and hands. Some say it is recommended [and not incumbent or obligatory].

[71] Meaning that if someone were to give me a large bowl full of bread and meat for me to eat from until I was satiated, my *wuḍū’* would not be broken and I would not do *wuḍū’* because of having eaten it since they are pure and wholesome things and not those occurrences which interrupt *wuḍū’* such that I would have to do *wuḍū’* because of it.

[72] And along with that, [he meant], “I would not do *wuḍū’* because of that, let alone if I drank a little,” and he singled out camel’s milk from other milks for mention because its fattiness is more obvious, and because the difference of opinion about it is clearer, thus what do you think about other milks?

[73] Main clause of a conditional sentence, i.e., there would be no agitation in my heart because of some doubt about whether my *wuḍū’* was broken.

[74] Meaning, “I will not do *wuḍū’* for that.”

[75] Abū Yūsuf narrated it on p.10.

[76] Occurrences such as faeces and urine.

[77] i.e. enter into the belly such as cooked food.

[78] This is the *wuḍū’* after food, and the *wuḍū’* for eating cooked food.

[79] Meaning, like the *wuḍū’* for the *ṣalāh*.

[80] Abū Yūsuf narrated it on p.10 from Abū Ḥanīfah from Dāwūd ibn ʿAbd ar-Raḥmān from Shuraḥbīl from Abū Saʿīd al-Khudrī.

[81] In *al-Jāmiʿ* it is “should we do *wuḍū’*,” and in the copy of the *Āthār* the *hamzah* used to signify a question is omitted [i.e., “I perform *wuḍū’*?”]

[82] There was no disagreement among them if the intention was as an optional act (*mustaḥabb*) or [as something addressed] to the elect [who might be expected to take on more than ordinary Muslims].

[83] Abū Yūsuf narrated it on p.9.

[84] Because it is supported by hadith.

[85] It is probably the mosque of Kufa.

[86] Meaning, from the door of the mosque called the Door of the Elephant, or from the door of the city of that name.

[87] *turādūn* literally “you are intended,” I have translated as *tarūdūn* “you are going around” assuming a mistake on the part of a copyist. – Trans.

[88] The *kunyah* of Ibn Masʿūd image.

[89] Food prepared for invited guests or for a wedding celebration whose intention is hospitality.

[90] The bowl.

[91] Refuting those who deny this interpretation of the narrations of the matter.

[92] An omission occurs in the chain of transmission here. Abū Yūsuf narrated it on p.11 from Abū Ḥanīfah from Yaḥyā ibn ʿAbdullāh from Abū Mājid al-Ḥanafī that he said, “While we were seated...” then mentioning the rest of the hadith.

[93] Imam Muḥammad derived another judgement from the act of Ibn Masʿūd and that is the permissibility of washing in the mosque, if it is for some other reason than cleaning off filth.

[94] *qalas* is vomit that fills the mouth and it is less than *qay’* but the opposite has also been said. The fact that it fills the mouth is a precondition for it nullifying *wuḍū’*, contrary to Zufar . The definition of its filling the mouth is that it should be to such an extent that is not possible to control it or withhold it without great effort and this is the correct position.

[95] Abū Yūsuf narrated it on p.8.

[96] An accidental reservation because the judgement is the same whether travelling or resident.

[97] However, the hadith in this area are unqualified on the reservation of a distinction between those one is forbidden to marry and others, as is narrated of ʿĀ’ishah that the Prophet used to kiss one of his wives and then pray without doing *wuḍū’*.

[98] Ash-Shāfiʿī gave verdict according to this and his proof was His words, exalted is He, “*Or touched women...*” (Sūrat an-Nisā’: 43). The answer to him is that the meaning of “touched” here is sexual intercourse. – Ḥāfiẓ Riyāḍ Aḥmad al-Multānī;

ḥadath is the exit of anything from the urinal tract or the anus, including wind. – Trans.

[99] Abū Yūsuf narrated it on p.6.

[100] *Madhy* is pre-ejaculatory fluid, which is a liquid that emerges from the sexual organs upon sexual arousal. It necessitates washing the private parts completely, cleaning the fluid off underwear or clothing, and repeating *wuḍū’*. – Trans.

[101] They are both pure bodily members and with respect to touching they are the same.

[102] Abū Yūsuf narrated it on p.6.

[103] Because of the hadith of Ṭalq ibn ʿAlī that he said, “Is it anything but a part of you?”

[104] Indicating that withholding oneself from it is better.

[105] Abū Yūsuf narrated it on p.6.

[106] It is more appropriate to interpret it as his repudiation of extravagance in washing the private parts with water, and indeed it is a clear statement on that, and Saʿd did not mean that washing the private parts with water is not valid, because his *madhhab* was the permissibility of contenting oneself with either of them [*istijmār* with stones or *istinjā’* with water].

[107] Abū Yūsuf narrated it on p.8.

[108] Meaning, it is a strongly confirmed (*mu’akkadah*) sunnah, meaning that uniting washing with water and [cleansing] with stones is better in our view than sufficing oneself with one of them.

[109] *janābah*, translated throughout as “being in need of a *ghusl* because of sexual relations,” covers the condition resulting from ejaculation while asleep or awake, with or without sexual intercourse and sexual intercourse with or without ejaculation.

[110] Nothing pollutes of actual or legal impurity, such as water, the earth and the person in need of *ghusl* because of sexual relations, because much water and flowing water cannot be rendered impure by impurities falling into them, and similarly the earth, which when it becomes polluted and then dries is then pure without any need for washing. The person in need of a *ghusl* because of sexual relations is not really impure in a real sense and the impurity in his case is legal, and it is similar with the woman in her menstrual period and the woman who experiences bleeding after childbirth. This is according to how Imam Muḥammad explains it, as comes after the tradition. Shaykh Mahdī Ḥasan said in his commentary, *Qalā’id al-azhār*, “In my view what is meant by ‘nothing’ is the state of being in need of a *ghusl* because of sexual relations (*janābah*), as the narration of ʿAbd ar-Razzāq and ad-Dāraquṭnī make clear, because in it there is, ‘There is no *janābah* for water, no *janābah* for the earth, no *janābah* for clothing and no *janābah* for the body.’ And there is from Ibn ʿAbbās, ‘There are four things that are not rendered impure: the human being, clothing, water and the earth,’ meaning that a human being does not become in a state of *janābah* if a person in a state of *janābah* touches him, nor does clothing if a person in a state of *janābah* wears it, nor the earth if a person in a state of *janābah* betakes himself to it [in *tayammum*], nor water if a person in a state of *janābah* immerses himself in it, and the judgement of being in a state of *janābah* does not transfer to these things. These things are only singled out for mention because of the great frequency with which they are needed.”

[111] Abū Yūsuf narrated it on p.4.

[112] On the body or the clothing and other things.

[113] The filth.

[114] From the thing.

[115] Meaning, it becomes pure and does not remain impure after the departure of the traces of the impurity.

[116] Filth, faeces and those things which a healthy constitution abhors.

[117] Meaning, it repels it from itself and so becomes pure.

[118] An-Nasā’ī and al-Bukhārī narrated it as a connected (*mawṣūl*) hadith.

[119] Abū Yūsuf narrated it on p.26.

[120] There is in *al-Jāmiʿ* that Ibrāhīm narrated it from a man from Ḥudhayfah, and the man was Hammām ibn al-Ḥārith as in the narration of al-Ḥārithī, so there is no difficulty in the hadith.

[121] Walking one day early in the morning in one of the pathways of Madīnah.

[122] Meaning, what is it with you, and what motive can you have for withholding your hand from me?

[123] And the *kāfir* is impure in his beliefs but not outwardly.

[124] Ibn Abī Shaybah narrated in the *Muṣannaf*, vol.1, p.159.

[125] Meaning, his limbs are pure as are the water he leaves and his sweat.

[126] Meaning, he has not the ability to use water because of the illness, and so it is permissible to do *tayammum* if he fears that because of using the water he will become more ill. Ash-Shāfiʿī said, “*Tayammum* is not permissible unless one fears that one will perish.”

[127] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.1, p.96.

[128] The traveller has even more right to this judgement.

[129] Abū Yūsuf narrated it on p.17.

[130] Someone some of whose limbs are broken, there are pustules and he is wounded, and a splint is tied tightly on the wound.

[131] There is no disagreement that if wiping over the splint hurts him then it is dropped, since washing is dropped if there is an excuse, and it is more appropriate that wiping should be dropped if there is an excuse.

[132] Lexically *tayammum* means “purpose and intention” and in the *Sharīʿah* it means to purpose going to pure earth to wipe the face and hands with the intention of becoming in a state in which it is permissible to do the prayer. It is firmly established in the Book and the Sunnah and the consensus of the *Ummah*. They agree unanimously that it is particularly for the face and the two hands even if the nature of the nullification of the state of purity is major. It is one of the distinguishing marks of this *Ummah*.

[133] Meaning, strike.

[134] Abū Yūsuf narrated it on p.17.

[135] We prefer it and regard it as the best thing to do.

[136] Abū Yūsuf narrated it on p.17.

[137] If it is according to the outward apparent meaning then there is an indication in it that wiping up to the elbows is not obligatory in the view of Ibrāhīm but on the contrary recommended (*mustaḥabb*) as Mālik said, “Wiping up to the wrists is obligatory and up to the elbows is a matter of choice.” If it is understood in the sense of something incumbent (*wājib*) as it is interpreted in the books of *fiqh* in some places [in which *wājib* is less binding than *farḍ* (obligatory)], then there is no disagreement between us and Ibrāhīm.

[138] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.1 p.146.

[139] *bahā’im* is the plural of *bahīmah* by which is meant any land or sea creature possessing four limbs, but what is meant here are domestic animals whose meat is eaten.

[140] The most obvious thing is that it is Yūnus ibn ʿUbayd al-Baṣrī.

[141] This is contradicted by what is narrated from him by aṭ-Ṭaḥāwī that he disapproved of the urine of camels, cows and sheep and goats.

[142] There is no severity to be applied to people in respect to it, but to avoid it is more appropriate.

[143] Possessing a cloven hoof, or leathern hoof pads [such as camels].

[144] Abū Yūsuf narrated it on p.7.

[145] There is no disagreement that the urine of those creatures whose meat is not eaten is impure, but there is difference of opinion about the urine of those whose meat is eaten. Abū Ḥanīfah and Abū Yūsuf said it is impure and Muḥammad said it is pure.

[146] That which the onlooker would think excessive, according to the ordinary usage of the Imam in cases such as these. However, since a quarter is treated (*mulḥaq*) as the total in some rulings, it is also here.

[147] He took the proof from the general sense of the hadith which shows that one must acquire purity from all urine.

[148] Since the urine of that whose meat can be eaten is pure in his opinion.

[149] Respecting the urine of infant boys, words occur in the different narrations such as sprinkling (*rashsh* and *naḍḥ*), following it with water (*itbāʿ al-mā’*) and pouring (*ṣabb*) it on it. Those who looked at the outward apparent meaning of the expressions denoting sprinkling said that one does not need to wash, and did not go very far into investigating their meanings. Those who looked at the expressions denoting “following up” and “pouring” gave the verdict that one had to wash the urine lightly not going to extremes such as by rubbing it etc. The term infant boy (*ṣabī*) is from the time of birth until weaning.

[150] Meaning, one is not forced to go to great lengths, and pouring comprises pouring little amounts of water.

[151] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.1, p.114.

[152] Meaning, lightly without rubbing.

[153] An accidental qualification, because the aforementioned judgement in the tradition is the same whether one is standing or sitting, but urinating standing in our view is disapproved for the elimination of doubt (*makrūh tanzīhan*) if it is not done out of necessity.

[154] It is likely that Ibrāhīm narrated from Abū Wā’il from Abū Ḥudhayfah image.

[155] Ibn Ḥajar image said, “He did that because he did not find a place to sit, or in order to make clear that it is permissible.” ʿIyāḍ said, “Perhaps his sitting became lengthy for him so that it became difficult to contain the urine, and it was not possible for him to go far away. Know that even if it is permissible to urinate standing, today it ought not to be encouraged because that has become a practice marking out non-Muslims.”

[156] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.1, p.115.

[157] Meaning, the Messenger of Allah image.

[158] They answered wisely and didn’t get involved in their mockery.

[159] Our people argued by means of the hadith that it is not permissible to face the *qiblah* or turn one’s back on it for urination or defecation whether one is in the desert [out in the country] or within buildings.

[160] The *ʿulamā’* are agreed that it is forbidden to clean the private parts with the right hand.

[161] Three is mentioned as a customary and average number, because, in the main, the point is to attain cleanliness with them, or it may be that [three] is mentioned by way of recommendation (*mustaḥabb*).

[162] Muslim narrated it in the book of purification in the chapter on “*istiṭābah*” (*istinjā’*, *i.e.*, cleaning the anus and penis with a piece of clay or a dry stone) in a connected manner from Sufyān from al-Aʿmash and Manṣūr from Ibrāhīm from ʿAbd ar-Raḥmān ibn Yazīd from Salmān. Abū Yūsuf narrated it on p.8.

[163] Preferable to us than only using stones. Nevertheless sufficing oneself with using stones is also a sunnah, but washing afterwards with water is better. It can be interpreted that he meant that washing oneself with water initially is better than purifying oneself with stones.

[164] Meaning, it is valid without any disapproval and it is permissible for him, and it is firmly established by hadith.

[165] Meaning that he should not stand until he is dry since there is the possibility of harm in that.

[166] Abū Yūsuf narrated it on p.5.

[167] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.1 p.60.

[168] It is thus in the texts, but it is the wrong way round. The truth is that it is from Jaʿfar ibn Tamām ibn al-ʿAbbās ibn ʿAbd al-Muṭṭalib from his father [Tamām] which Aḥmad narrated thus.

[169] Meaning, “Don’t come to me in the state when your teeth are yellowed, but rather use the tooth stick first and then enter.”

[170] Meaning, with the *wuḍū’* of every prayer because of what Aḥmad narrated from Abū Hurayrah image, “If it were not I should cause difficulty for my community, I would have ordered them to use the tooth stick with every *wuḍū’*.” So the text is interpreted according to the explanation

occurring in some narrations, which is more encompassing because it is based on making it easier, for it is possible that blood can come out with the tooth stick and invalidate *wuḍū’*.

[171] Abū Yūsuf narrated it on p. 28-29.

[172] Meaning, the strongly confirmed (*mu’akkadah*) sunnah particularly when the teeth become yellowed, and the breath is bad, etc.

[173] It is permitted both to men and women in *iḥrām* to use the tooth stick even though it resembles the removal of dirt from the teeth which in the case of the body during *iḥrām* is forbidden. However, the tooth stick in this case is not forbidden, and that is the verdict of the dominant majority of the *ʿulamā’*.

[174] Al-Bukhārī narrated it from Abū Hurayrah in the book on the Jumuʿah in the chapter on “the tooth stick” and Muslim in the book on “purification” in the chapter on “the tooth stick” and Abū Dāwūd in the book on “purification” in the chapter on “the tooth stick” as did others.

[175] Because of His words, exalted is He, “*and wipe over your heads*,” (Sūrat al-Mā’idah: 6). It is obvious that the turban and a woman’s head-covering are not the head itself.

[176] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.1, p.31.

[177] The temple (*ṣadgh*) is that which is between the eye and the ear.

[178] We extend it.

[179] Obligatorily.

[180] *janābah* lexically means “distance” and is used metaphorically in the case of someone who is obliged to make a *ghusl* because of sexual intercourse or nocturnal emissions, which makes him distant from being able to approach acts of worship.

[181] Meaning, the circumcised part of the man and of the woman, according to the custom of the Arabs because they also used to circumcise women. What is meant here is penetration and entering. Touching without entering and without disappearance of the head of the penis does not necessitate *ghusl*, as is the consensus.

[182] The Companions used to have different views about that, but they reached consensus at the time of ʿUmar that *ghusl* thus becomes obligatory.

[183] Abū Yūsuf narrated it on p.13 and ash-Shāfiʿī in the *Umm* in the book of purification, the chapter on “that which makes *ghusl* incumbent,” and Aḥmad narrated it in [section of the] *Musnad* [on the hadith] of ʿĀ’ishah, and at-Tirmidhī under “purification”, the chapter on “when the two circumcised parts meet then *ghusl* is incumbent,” and Ibn Mājah in “purification”, the chapter on “the necessity of *ghusl* when the two circumcised parts meet.”

[184] The verbal form here uses *kāna* which ordinarily gives the sense of regular practice, but Ḥāfiẓ Riyāḍ Aḥmad al-Multānī specifically discounts this. – Trans.

[185] Water for *wuḍū’* or *ghusl* originally. Imam an-Nawawī said, “Perhaps his sleeping without *wuḍū’* or *ghusl* happened once or twice in order to make clear that it is permissible.”

[186] Indicating that *ghusl* or *wuḍū’* before sleep is recommended (*mustaḥabb*).

[187] “Entering” and the meeting of the two circumcised parts with or without ejaculation.

[188] This refers to a woman who has been thrice divorced and remarried. Her intercourse with her second husband, whether or not he ejaculates, means that if he in his turn divorces her, she is permissible to her first husband. – Trans.

[189] If he divorces her after it, because it is more serious than the couple having been isolated together.

[190] Stated as a rhetorical question, meaning “It certainly does obligate.”

[191] The *ṣāʿ* is a measure of four cupped handfuls, a reminder that *ghusl* is best done with a little amount of water. [One *ṣāʿ* is a volume of 2.03 litres according to the Ḥanafī madhhab, and will have a different weight according to the commodity in question. Its measure in the Hijaz differed from that adopted in Iraq. – Trans.]

[192] Said ironically, meaning that it certainly does necessitate *ghusl*.

[193] Abū Yūsuf narrated it on p.13.

[194] *ghusl* or *ghisl* and this latter is the water with which one washes.

[195] It was ʿĀ’ishah, as is in a narration from her, “I used to make *ghusl*, I and the Prophet...”

[196] “At the same time” either qualifies “take a *ghusl*”or “contending for the water.”

[197] Abū Yūsuf narrated it on p.14, and al-Bukhārī under “*ghusl*” in the chapter on “whether the person in need of a *ghusl* because of sexual relations should enter his hand in the vessel before washing them.” Muslim narrated it under “menstruation” in the chapter on “the amount of water that is recommended in washing because of *janābah*,” and Abū Dāwūd in “purification,” the chapter on “*wuḍū’* with water left over by a woman,” and an-Nasā’ī in “purification”, the chapter “in mention of a man and woman taking a *ghusl* from a single vessel,” and Ibn Mājah under “purification” in the chapter on “a man and a woman taking a *ghusl* from a single vessel.”

[198] As for the purification of the man and woman from one vessel, it is permissible according to the consensus of the Muslims. As for the purification of the woman with water left over by the man it is also permissible, and vice-versa it is permissible according to the three Imams contrary to Aḥmad.

[199] *istiḥāḍah* or chronic menstrual bleeding is known medically as “dysfunctional uterine bleeding.”

[200] Meaning, she delays it from its preferred time [but not out of its obligatory time].

[201] Meaning, at the beginning of its time. This joining of the two prayers is a seeming joining [since each prayer is still actually said in its real time]. Similarly, she prays *Maghrib* at the end of its time and *ʿIshā’* at the beginning of its time.

[202] Abū Yūsuf narrated it on p.35.

[203] Because of that which is narrated of ʿĀ'ishah who said, "The Messenger of Allah was asked about a woman with chronic menstrual bleeding, and he said, 'She should give up the prayer for the [customary number of] days of her period, then take a single *ghusl* and then do *wuḍū'* for every prayer.'"

[204] Up until the coming of the next time. In the printed editions it is "in the time" which is probably a mistake.

[205] Not, as others say, five or three *ghusls*.

[206] None of the scholars who have published the hadith or any of the commentators accept that it is Umm Ḥabībah bint Abī Sufyān. So it is not surprising that what occurs in the *Āthār* must be a copyist's error and the original was Umm Ḥabībah bint Jaḥsh.

[207] A single one.

[208] Whatever obligatory and optional prayers she wishes in the time.

[209] An-Nasā'ī narrated it in the book on menstruation and chronic menstrual bleeding, the chapter on "mention of the menstrual periods" from a hadith of az-Zuhrī from ʿAmrah from ʿĀ'ishah.

[210] Ash-Shāfiʿī and Aḥmad said that she must make up the prayer.

[211] Ibn Abī Shaybah narrated the same as it in the *Muṣannaf*, vol.2, p. 126.

[212] Mālik gave verdict by that.

[213] Meaning, out of obligation, but otherwise it is recommended.

[214] Meaning, when the woman's bleeding ceases and she immediately busies herself with *ghusl* without, however, finding time enough in which to finish the *ghusl* and everything connected with it, because the time elapses, she does not have to make up this prayer. That is because the thing which would have made it obligatory was if she had enough time for it, but that was not the case

[215] Meaning, there is no established pattern about that.

[216] Meaning, [other women] of her time or of her close family.

[217] Because the Prophet appointed forty days as the [limit of the] time for postnatal bleeding.

[218] Meaning, she remains in the state of postnatal bleeding up until this period of time as long as she does not become pure. If she does not have a customary duration to postnatal bleeding then it is counted as forty days, and if she goes beyond that amount it is counted as chronic menstrual bleeding, and she fasts and prays etc. If her bleeding ceases before that, she becomes pure again since there is no lower limit to postnatal bleeding.

[219] Because the mouth of the womb is blocked by pregnancy and the blood of menstruation cannot come out of it.

[220] An indirect command.

[221] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.2, p. 26.

[222] Because she is in a state of purity.

[223] Meaning, “the ‘blood of’ pregnancy” so the word “blood” has been omitted. It may be interpreted as “because the blood of pregnancy is not menstruation,” and there is in *al-Jāmiʿ:* “because the blood of the pregnant woman is not menstruation,” which is clearer than the tradition.

[224] The woman who has a painful delivery is under the same ruling as the sick person on their deathbed: her setting slaves free, giving gifts and making bequests are reckoned from the third of her inheritance that she may bequeath.

[225] She means to give something away while alive but it is executed after her death and so comes out of the third, which is the maximum that anyone may give away as a bequest.

[226] Abū Yūsuf narrated it on p.27.

[227] Literally “see.”

[228] An erotic dream accompanied by the emission of seminal fluids.

[229] The precondition of *ghusl* [in this case] is the ejaculation of sperm and the presence of moisture and if these do not obtain, *ghusl* is not obligatory on the man or the woman.

[230] Abū Yūsuf narrated it on p.14, and al-Bukhārī narrated it in a connected fashion in the “book of knowledge” in the chapter on “modesty in knowledge,” and Muslim narrated it under “menstruation” in the chapter on “the necessity of *ghusl* for women.”

[231] But he ought to call the prayer and the *iqāmah* in a state of purity since the *adhān* and *iqāmah* are noble acts of remembrance in which it is recommended to be in a state of purity, but if one calls the *adhān* not in a state of *wuḍū’* it is valid, but it is contrary to what is more appropriate.

[232] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.1, p.191.

[233] Indicating that what is recommended is other than this.

[234] Apparently the pronoun in the nominative case (he said) refers to Ibrāhīm, but it is a word which occurs repeatedly in the expression and it is possible that the pronoun refers to Ḥammād, meaning that Ibrāhīm was asked by Ḥammād about the *mu’adhdhin* talking during the *adhān* and he said, “I do not tell him to do it,” thus “he said,” is in the sense “he asked.” Outwardly it seems that he hesitated over this judgement and did not give a decision in favour of either commanding it or forbidding it, or it means that no clear text has been narrated concerning it, so, “I do not tell him to do it and I do not forbid him.” This is contradicted by that which is in the *Mudawwanah* that he said, “It is disapproved for the *mu’adhdhin* to speak during his *adhān* or his *iqāmah*.”

[235] Abū Yūsuf narrated it on p.19.

[236] What is intended by this phrase is to make things easy.

[237] It is announcing after announcing.

[238] Meaning, the *ʿulamāʾ* of Kufa, and it is [to call out] between the call to prayer and the *iqāmah*, “Hasten to prayer, hasten to success,” twice. It did not exist at the time of the Prophet image nor at the time of the Companions.

[239] Since the Followers regarded it as good (*istiḥsān*) and they were the best generation after the Prophet image and the Companions.

[240] i.e., the *tathwīb* of the Followers which is the *tathwīb* of the earliest generations who originated it for all people, and it was only done in the prayer of *Fajr*. If a person exerts himself and investigates the traditions he will find, inshāʾAllāh, the source for *tathwīb* about which Ibrāhīm talks that it was [regarded as] good in the era of the Companions also, so that it is not unlikely that the pronoun in “their *tathwīb*” refers to the Companions and the Followers altogether. The assessment of Ibrāhīm that the *tathwīb* had been originated refers only to what the *ʿulamāʾ* of Kufa originated between the *adhān* and the *iqāmah*, “Hasten to prayer, hasten to success,” because it [prayer is better than sleep] existed in the time of the Companions, and indeed at the time of the Prophet image.

[241] Abū Yūsuf narrated it on p.18.

[242] And the *iqāmah* is also said [saying each phrase] twice according to the generality of the *ʿulamāʾ* just as in the *adhān*. But according to Mālik and ash-Shāfiʿī it is said once [each phrase] except for the phrase “Prayer is about to begin” which is said twice [according to ash-Shāfiʿī but once according to Mālik]. We have the hadith of ʿAbdullāh ibn Zayd that the angel which descended from heaven brought the *adhān* and then said the *iqāmah* in the same way, and the hadith of ʿAbdullāh is fundamental concerning the *adhān* and the hadith of Abū Maḥdhūrah, in which there is that the *adhān* is seventeen phrases which is only the case when it is paired.

[243] And if they stand before that there is no harm in it, according to the outward sense of the hadith, and in it the matter is quite open, and there is no harm in people [choosing whichever they choose], because the differences of the proofs and of the *ʿulamāʾ* makes it somewhat lighter, and for this reason Muḥammad said, “All of that is good.”

[244] And Abū Yūsuf and ash-Shāfiʿī said that he does not say the *takbīr* until the *muʾadhdhin* has finished the *iqāmah*.

[245] Abū Yūsuf narrated the like of it on p.19.

[246] i.e., they pray without *adhān* and *iqāmah*, and if they do the *adhān* and *iqāmah* it is valid.

[247] Abū Yūsuf narrated it on p.18.

[248] In *al-Jāmiʿ* it is, “And asked him.”

[249] i.e., for two days.

[250] From a word meaning to be fast and to hasten to the prayer at the beginning of its time, i.e., he told him to establish all of the prayers at the beginnings of their times, and the details of that are in *Muslim* in the hadith of Abū Mūsā al-Ashʿarī .

[251] Muslim narrated it in a connected fashion from Buraydah in the book on the mosques in the chapter on “the times of the five prayers,” and others have narrated it.

[252] i.e., in our view it is recommended to do *Maghrib* immediately after the setting of the sun, and after that it is disapproved in order to safeguard oneself (*makrūh tanzīh*) up until the stars become numerous.

[253] i.e., enter *Ẓuhr* into the [time of] coolness, meaning pray it when the severe heat has stilled.

[254] The intense heat of mid-day in summer is from Jahannam. – Trans.

[255] Abū Yūsuf narrated it on p.5.

[256] Referring to the *āyah*, “*Establish ṣalāh from the time the sun declines* (*dulūk*) ....” (Sūrat al-Isrā’: 78); *dulūk* is either interpreted as the setting of the sun or its declining from the meridian. – Trans.

[257] Ibn Abī Shaybah narrated the like of it in the *Muṣannaf*, vol.1, p.290.

[258] The dominant majority of the *ʿulamā’* took the position that it is a recommended sunnah and is not obligatory. That it is obligatory is cited of several of the right-acting first generations. The dominant majority responded concerning the hadith narrated commanding it that it is interpreted as being a recommendation in order to reconcile the hadith.

[259] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.1, p.436.

[260] *fabihā wa niʿmat* is an expression having a large number of explanations of which Ḥāfiẓ Riyāḍ Aḥmad al-Multānī chooses “that he suffices himself with it, i.e., this action of *wuḍū’*, and what an excellent feature that is or what an excellent concession.” – Trans.

[261] The hadith is well-known among the people of knowledge, and a large number of the Companions narrated it. It has been narrated from Jābir by different routes. The route from Jābir through Abū’ Naḍrah was narrated by ʿAbd ibn Ḥamīd on p.326.

THE PRAYER

بَابُ افْتِتَاحِ الصَّلَوةِ وَرَفْعِ الأَيْدِي وَالسُّجُودِ عَلَى الْعِمَامَةِ

24. BEGINNING THE PRAYER, RAISING THE HANDS AND PROSTRATING ON THE TURBAN

٧٢- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّ نَاسًا مِن أَهْلِ الْبَصْرَةِ أَتَوْا عِنْدَ عُمَرَ بْنِ الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ لَمْ يَأْتُوهُ إِلَّا لِيَسْأَلُوهُ عَنْ افْتِتَاحِ الصَّلَوةِ، قَالَ: فَقَامَ عُمَرُ بْنُ الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ، فَافْتَتَحَ الصَّلَوةَ وَهُمْ خَلْفَهُ، ثُمَّ جَهَرَ، فَقَالَ: سُبْحَانَكَ اللَّهُمَّ وَبِحَمْدِكَ وَتَبَارَكَ اسْمُكَ وَتَعَالَى جَدُّكَ وَلَا إِلَهَ غَيْرُكَ.

72. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm[262] that some of the people of Basra came to ʿUmar ibn al-Khaṭṭāb ؓ only for the purpose of asking him about the beginning of the prayer. He said, 'So ʿUmar ibn al-Khaṭṭāb ؓ stood[263] and began the prayer with them behind him, and then he recited aloud[264] saying, "Glorious are You, O Allah and with Your praise, and blessed is Your name, exalted is Your majesty and there is no god other than You."'"[265]

قَالَ مُحَمَّدٌ : وَبِهَذَا نَأْخُذُ فِي افْتِتَاحِ الصَّلَوةِ وَلَكِنَّا لَا نَرَى أَنْ يَجْهَرَ بِذَلِكَ الْإِمَامُ وَلَا مَنْ خَلْفَهُ ، وَإِنَّمَا جَهَرَ بِذَلِكَ عُمَرُ رَضِيَ اللَّهُ عَنْهُ لِيُعَلِّمَهُمْ مَا سَأَلُوهُ عَنْهُ.

Muḥammad said, "We adhere to this[266] in the beginning of the prayer, but we do not think that the imam should recite aloud nor those behind him. ʿUmar ؓ only recited aloud in order to teach them that which they had asked him.”

٧٣- وَكَذَٰلِكَ بَلَغَنَا عَنْ إِبْرَاهِيمَ أَنَّهُ قَالَ : لَا تَرْفَعْ يَدَيْكَ فِي شَيْءٍ مِنْ صَلٰوتِكَ بَعْدَ الْمَرَّةِ الْأُولَى.

73. Similarly it has reached us that Ibrāhīm said, “Do not raise[267] your hands in any part of the prayer after the first time.”[268]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللّٰهُ تَعَالَى.

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٤- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : مَنْ لَمْ يُكَبِّرْ حِينَ يَفْتَتِحُ الصَّلٰوةَ فَلَيْسَ فِي صَلٰوةٍ.

74. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Whoever does not say *takbīr*[269] in the beginning of the prayer is not in prayer.’”[270]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ إِلَّا أَنْ يَكُونَ حِينَ كَبَّرَ تَكْبِيرَةَ الرُّكُوعِ كَبَّرَهَا مُنْتَصِباً يُرِيدُ بِهَا الدُّخُولَ فِي الصَّلٰوةِ فَيُجْزِئُهُ ذَلِكَ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللّٰهُ تَعَالَى.

Muḥammad said, “We adhere to this except if he says *takbīr* for going into the bowing posture but says it while standing erect[271] and intends by it to enter into the prayer in which case it suffices him, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٥- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا عُثْمَانُ بْنُ عَبْدِ اللّٰهِ بْنِ مَوْهِبٍ أَنَّهُ صَلَّى خَلْفَ أَبِي هُرَيْرَةَ رَضِيَ اللّٰهُ عَنْهُ وَكَانَ يُكَبِّرُ كُلَّمَا سَجَدَ وَكُلَّمَا رَفَعَ.

75. Muḥammad said, "Abū Ḥanīfah informed us saying, 'ʿUthmān ibn ʿAbdullāh ibn Mawhab narrated to us that he prayed behind Abū Hurayrah ؓ who used to say *takbīr* every time he prostrated and every time he lifted himself up.'"[272]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah."

٧٦– مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ: حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ قَالَ: لَا بَأْسَ بِالسُّجُودِ عَلَى الْعِمَامَةِ.

76. Muḥammad said, "Abū Ḥanīfah informed us saying, 'Ḥammād narrated to us that Ibrāhīm said, "There is no harm[273] in prostrating on the turban."'"

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، لا نَرَى بَأْساً وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this. We see no harm in it, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

◆

بَابُ الْجَهْرِ بِالْقِرَاءَةِ

25. RECITING ALOUD

٧٧- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : أَخْبَرَنِي مَنْ صَلَّى فِي جَانِبِ عَبْدِ اللهِ بْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ ، وَحَرَصَ عَلَى أَنْ يَسْمَعَ صَوْتَهُ فَلَمْ يَسْمَعْ غَيْرَ أَنَّهُ سَمِعَهُ يَقُولُ : ﴿ رَبِّ زِدْنِي عِلْمًا ﴾ يُرَدِّدُهَا مِرَارًا ، فَظَنَّ الرَّجُلُ أَنَّهُ يَقْرَأُ ﴿ طه ﴾ .

77. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Someone who prayed[274] beside ʿAbdullāh ibn Masʿūd ﵁ informed me that he had been eager to hear his voice but could only hear[275] him saying, “My Lord increase me in knowledge,” which he repeated over and over again,[276] and so the man thought he was reciting Ṭā Hā.’”[277]

قَالَ مُحَمَّدٌ : وَهَذَا فِي صَلَوةِ النَّهَارِ فَلَا نَرَى بَأْساً ، أَنْ يَقِفَ الرَّجُلُ عَلَى شَيْءٍ مِن الْقُرْآنِ مِثْلَ هَذَا ، يَدْعُو لِنَفْسِهِ فِي التَّطَوُّعِ ، فَأَمَّا الْمَكْتُوبَةُ؛ فَلَا .

Muḥammad said, “This is in the prayer during the daytime, and so we see no harm in it if a man remains on some portion of the Qur’ān such as this, supplicating for himself in optional extra *rakʿahs*. But as for the obligatory prayer, then no [we do not think he should do so].”

بَابُ التَّشَهُّدِ

26. *TASHAHHUD*

٧٨- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا بِلَالٌ عَنْ وَهْبِ بْنِ كَيْسَانَ عَنْ جَابِرِ بْنِ عَبْدِ اللهِ الْأَنْصَارِيِّ رَضِيَ اللَّهُ عَنْهُ قَالَ : كَانَ رَسُولُ اللهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يُعَلِّمُنَا التَّشَهُّدَ وَالتَّكْبِيرَ فِي الصَّلَوةِ ، كَمَا يُعَلِّمُنَا السُّورَةَ مِنَ الْقُرْآنِ.

78. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Bilāl[278] narrated to us from Wahb ibn Kaysān that Jābir ibn ʿAbdullāh al-Anṣārī رضي الله عنه said, “The Messenger of Allah ﷺ used to teach us the *tashahhud* and the saying of *takbīr*[279] in the prayer just as he would teach us a sūrah of the Qur’ān.”’”[280]

٧٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : قُلْتُ : أَقُولُ ﴿ بِسْمِ اللَّهِ ﴾ ؟ قَالَ : قُلْ : ﴿ التَّحِيَّاتُ لِلَّهِ ﴾ .

79. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that he [Ḥammād] said, ‘I said,[281] “Should I say, ‘In the name of Allah’?”[282] but he [Ibrāhīm] said, “Say, ‘Greetings are for Allah.’”’”[283]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، لَا نَرَى أَنْ يُزَادَ فِي التَّشَهُّدِ ، وَلَا يُنْقَصَ مِنْهُ حَرْفٌ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. We do not think[284] that even a letter should be added into the *tashahhud* or taken away from it, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : كَانُوا يَتَشَهَّدُونَ عَلَى عَهْدِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ، فَيَقُولُونَ فِي تَشَهُّدِهِمْ : ﴿ السَّلَامُ عَلَى اللَّهِ ﴾ ، فَانْصَرَفَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ذَاتَ يَوْمٍ فَأَقْبَلَ عَلَيْهِمْ بِوَجْهِهِ ، فَقَالَ لَهُمْ : لَا تَقُولُوا : ﴿ السَّلَامُ عَلَى اللَّهِ ﴾ ، إِنَّ اللَّهَ هُوَ السَّلَامُ ، وَلَكِنْ قُولُوا : ﴿ السَّلَامُ عَلَيْنَا وَعَلَى عِبَادِ اللَّهِ الصَّالِحِينَ ﴾ ،

80. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘They used to say the *tashahhud*[285] at the time of the Messenger of Allah ﷺ and say in their *tashahhud*, “Peace be upon

Allah,”[286] and so the Prophet ﷺ finished one day, turned to face them, and said to them, “Do not say, ‘Peace be upon Allah.’ Allah *is* Peace. Rather say, ‘Peace be upon us and upon the right-acting slaves of Allah.’”””[287]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ الْجَهْرِ بِبِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

27. RECITING, “IN THE NAME OF ALLAH, THE ALL-MERCIFUL, THE MOST MERCIFUL” ALOUD

٨١– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا أَبُوسُفْيَانَ عَنْ عَبْدِ اللَّهِ بْنِ يَزِيدَ عَنْ أَبِيهِ قَالَ : صَلَّى خَلْفَ إِمَامٍ فَجَهَرَ بِبِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ ، فَلَمَّا انْصَرَفَ؛ قَالَ لَهُ: يَا عَبْدَاللَّهِ! أَغْنِ عَنْ كَلِمَاتِكَ هَذِهِ؛ فَإِنِّي قَدْ صَلَّيْتُ خَلْفَ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَخَلْفَ أَبِي بَكْرٍ ، وَخَلْفَ عُمَرَ وَخَلْفَ عُثْمَانَ رَضِيَ اللَّهُ عَنْهُم ، وَلَمْ أَسْمَعْهَا مِنْهُمْ .

81. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Sufyān narrated to us from Yazīd ibn ʿAbdullāh that his father[288] said that he prayed behind an imam who recited ‘In the name of Allah, the All-Merciful, the Most Merciful’ aloud and when he finished he said[289] to him, “Slave of Allah![290] dispense with[291] these words of yours, because I prayed behind the Messenger of Allah ﷺ, behind Abū Bakr, behind ʿUmar, and behind ʿUthmān ﷺ, and I did not hear these [words] from them.”’”[292]

٨٢- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : قَالَ ابْنُ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ فِي الرَّجُلِ يَجْهَرُ بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ : إِنَّهَا أَعْرَابِيَّةٌ ، وَكَانَ لا يَجْهَرُ بِهَا هُوَ ، وَلَا أَحَدٌ مِنْ أَصْحَابِهِ .

82. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Ibn Masʿūd ﵁ said concerning a man who recited “In the name of Allah, the All-Merciful, the Most Merciful” aloud [in the prayer], that it is the practice of the desert Arabs[293] and that he did not use to recite it aloud nor did any of his companions.’”[294]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٣- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : أَرْبَعٌ يُخَافِتُ بِهِنَّ الْإِمَامُ : سُبْحَانَكَ اللَّهُمَّ وَ بِحَمْدِكَ ، وَالتَّعَوُّذُ مِنَ الشَّيْطَانِ ، وَ بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ ، وَ آمِينَ .

83. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘There are four things with which the imam lowers his voice,[295] “Glorious are You, O Allah and with Your praise, [and blessed is Your name, exalted is Your majesty and there is no god other than You,]” the seeking refuge from *shayṭān*, “In the name of Allah, the All-Merciful, the Most Merciful” and the *āmīn*.’”[296]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ الْقِرَاءَةِ خَلْفَ الْإِمَامِ وَتَلْقِينِه

28. RECITATION BEHIND THE IMAM AND PROMPTING HIM

٨٤– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ: حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ قَالَ: مَا قَرَأَ عَلْقَمَةُ بْنُ قَيْسٍ قَطُّ فِيمَا يُجْهَرُ فِيهِ ، وَلَا فِيمَا لَا يُجْهَرُ فِيهِ ، وَلَا فِي الرَّكْعَتَيْنِ الْأُخْرَيَيْنِ أُمَّ الْقُرْآنِ، وَلَا غَيْرَهَا خَلْفَ الْإِمَامِ.

84. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us that Ibrāhīm said, “When he was behind the imam, ʿAlqamah ibn Qays never recited[297] the Umm al-Qur’ān [Fātiḥah] nor anything else in that in which the recitation was aloud nor in that in which the recitation was not aloud, nor in the last two *rakʿahs.*”’”[298]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ لَا نَرَى الْقِرَاءَةَ خَلْفَ الْإِمَامِ فِي شَيْءٍ مِنَ الصَّلَوةِ؛ يُجْهَرُ فِيهِ، أَوْ لَا يُجْهَرُ فِيهِ.

Muḥammad said, “We adhere to this. We do not think[299] that one should recite behind the imam in any part of the prayer whether or not he recites aloud.”

٨٥– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ قَالَ : لَا تَزِدْ فِي الرَّكْعَتَيْنِ الْأُخْرَيَيْنِ عَلَى فَاتِحَةِ الْكِتَابِ.

85. Muḥammad said, “Abū Ḥanīfah informed us, ‘Ḥammād narrated to us that Ibrāhīm said, “Do not do anything extra in the last two *rakʿahs* over and above the Fātiḥah of the Book.”’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah.”

٨٦- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا أَبُو الْحَسَنِ مُوسَى بْنُ أَبِي عَائِشَةَ ، عَنْ عَبْدِ اللَّهِ بْنِ شَدَّادِ بْنِ الْهَادِ ، عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ الْأَنْصَارِيِّ رَضِيَ اللَّهُ عَنْهُ قَالَ : صَلَّى رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ؛ وَرَجُلٌ خَلْفَهُ يَقْرَأُ ، فَجَعَلَ رَجُلٌ مِنْ أَصْحَابِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَنْهَاهُ عَنِ الْقِرَاءَةِ فِي الصَّلوةِ ، فَقَالَ : أَتَنْهَانِي عَنِ الْقِرَاءَةِ خَلْفَ نَبِيِّ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ؟ فَتَنَازَعَا ، حَتَّى ذُكِرَ ذَلِكَ لِلنَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ، فَقَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ : مَنْ صَلَّى خَلْفَ إِمَامٍ فَإِنَّ قِرَاءَةَ الْإِمَامِ لَهُ قِرَاءَةٌ .

86. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Abū’l-Ḥasan Mūsā ibn Abī ʿĀ’ishah narrated to us from ʿAbdullāh ibn Shaddād ibn al-Hād[300] that Jābir ibn ʿAbdullāh al-Anṣārī ؓ said, “The Messenger of Allah ﷺ prayed[301] with a man behind him reciting, so a man from the Companions of the Prophet ﷺ began to forbid him[302] to recite during the prayer. So he said,[303] ‘Do you forbid me to recite behind the Prophet of Allah ﷺ?’ And they quarrelled until that was mentioned to the Prophet ﷺ. The Prophet ﷺ said, ‘Whoever prays behind an imam, the imam’s recitation is his recitation.’”’”[304]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٧– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ سَعِيدِ بْنِ جُبَيْرٍ قَالَ : اِقْرَأْ خَلْفَ الْإِمَامِ فِي الظُّهْرِ وَالْعَصْرِ ، وَلَا تَقْرَأْ فِيمَا سِوَى ذَلِكَ.

87. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Saʿīd ibn Jubayr said, ‘Recite[305] behind the imam in *Ẓuhr* and *ʿAṣr*, and do not recite behind him in anything else.’”[306]

قَالَ مُحَمَّدٌ : لَا يَنْبَغِي أَنْ يُقْرَأَ خَلْفَ الْإِمَامِ فِي شَيْءٍ مِنَ الصَّلَوَاتِ.

Muḥammad said, “No one should recite behind the imam in any of the prayers.”

٨٨– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الْإِمَامِ يَغْلَطُ بِآيَةٍ ، قَالَ: يَقْرَأُ بِالْآيَةِ الَّتِي بَعْدَهَا ، فَإِنْ لَمْ يَفْعَلْ؛ قَرَأَ سُورَةً غَيْرَهَا ، فَإِنْ لَمْ يَفْعَلْ؛ فَلْيَرْكَعْ إِذَا كَانَ قَدْ قَرَأَ ثَلَاثَ آيَاتٍ أَوْ نَحْوَهَا ، فَإِنْ لَمْ يَفْعَلْ؛ فَافْتَحْ عَلَيْهِ، وَهُوَ مُسِيئٌ.

88. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning when the imam makes a mistake in an *āyah*, ‘Let him recite the *āyah* after that,[307] but if he does not do that[308] then let him recite another sūrah, and if he does not do that then let him bow in *rukūʿ* if he had already recited three *āyāt* or something like that. If he does not do [any of that] then prompt him, but he has done wrong.’”[309]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ إِقَامَةِ الصُّفُوفِ وَفَضْلِ الصَّفِّ الْأَوَّلِ

29. STRAIGHTENING THE ROWS AND THE MERIT OF THE FIRST ROW

٨٩- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّهُ كَانَ يَقُولُ: سَوُّوا صُفُوفَكُمْ، وَسَوُّوا مناكِبَكُمْ، تَرَاصُّوا، أَوْ لَيَتَخَلَّلَنَّكُمُ الشَّيْطَانُ كَأَوْلَادِ الْحَذْفِ، إِنَّ اللَّهَ وَمَلَائِكَتَهُ يُصَلُّونَ عَلَى مُقِيمِي الصُّفُوفِ.

89. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm used to say, 'Make your rows straight, and make your shoulders level.[310] Press closely together or *shayṭān* will enter in the gaps[311] between you like lambs of small black Yemeni sheep or goats. Allah and His angels send blessings on those who straighten the rows.'"[312]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، لَا يَنْبَغِي أَنْ يُتْرَكَ الصَّفُّ وَفِيهِ الْخَلَلُ حَتَّى يُسَوُّوا ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, "We adhere to this. A row ought not to be left with a gap in it without them rectifying it. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

٩٠- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ قَالَ: سَأَلْتُ إِبْرَاهِيمَ عَنِ الصَّفِّ الْأَوَّلِ، أَلَهُ فَضْلٌ عَلَى الصَّفِّ الثَّانِي؟ قَالَ: إِنَّمَا كَانَ يُقَالُ: لَا تَقُمْ فِي الصَّفِّ يَعْنِي الثَّانِيَ حَتَّى يَتَكَامَلَ الصَّفُّ الْأَوَّلُ.

90. Muḥammad said, "Abū Ḥanīfah informed us that Ḥammād said, 'I asked Ibrāhīm whether the first row has any merit over and above the second and he said, "They only used to say,[313] 'Do not stand in the row – meaning the second – until the first row is complete.'"'"

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، لَا يَنْبَغِي إِذَا تَكَامَلَ الْأَوَّلُ أَنْ يُزَاحِمَ عَلَيْهِ، فَإِنَّهُ يُؤْذِي ، وَالْقِيَامُ فِي الصَّفِّ الثَّانِي خَيْرٌ مِنَ الْأَوَّلِ.

Muḥammad said, “We adhere to this. When the first row is complete, one ought not to try and crowd into it because that[314] is the cause of annoyance [to others], and so to stand in the second row[315] is better than the first.”

◆

بَابُ الرَّجُلِ يَؤُمُّ الْقَوْمَ أَوْ يَؤُمُّ الرَّجُلَيْنِ

30. A MAN LEADING A GROUP OF PEOPLE OR TWO MEN IN PRAYER

٩١- مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ: يَؤُمُّ الْقَوْمَ أَقْرَأُهُمْ لِكِتَابِ اللَّهِ، فَإِنْ كَانُوا فِي الْقِرَاءَةِ سَوَاءً فَأَقْدَمُهُمْ هِجْرَةً، فَإِنْ كَانُوا فِي الْهِجْرَةِ سَوَاءً فَأَقْدَمُهُمْ سِنًّا .

91. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘The best read of a people in the Book of Allah should lead the people in prayer, and if they are equal in recitation then the earliest of them in emigration.[316] If they are equal in terms of emigration then the oldest of them.’”[317]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَإِنَّمَا قِيلَ : ﴿أَقْرَأُهُمْ لِكِتَابِ اللَّهِ﴾ لِأَنَّ النَّاسَ كَانُوا فِي ذَلِكَ الزَّمَانِ أَقْرَأُهُمْ لِلْقُرْآنِ أَفْقَهُهُمْ فِي الدِّينِ ، فَإِذَا كَانُوا فِي هَذَا الزَّمَانِ عَلَى ذَلِكَ فَلْيَؤُمَّهُمْ أَقْرَأُهُمْ، فَإِنْ كَانَ غَيْرُهُ أَفْقَهَ مِنْهُ وَأَعْلَمَهُمْ بِسُنَّةِ الصَّلَوةِ، وَهُوَ يَقْرَأُ نَحْوًا من قِرَاءَتِه: فَأَفْقَهُهُمَا وَأَعْلَمُهُمَا بِسُنَّةِ الصَّلَوةِ أَوْلَاهُمَا بِالْإِمَامَةِ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. It was only said, ‘The best read of a people in the Book of Allah,’ because in that epoch[318] the best read in the Qur’ān was also the most knowledgeable of the *fiqh* of the *dīn*. In this time if they are like that then the best read should lead them in prayer. However, if someone else is more knowledgeable of the *fiqh* than him and more knowledgeable of the sunnah of the prayer and he reads as well as he does, then the one who is more knowledgeable of the *fiqh* and more knowledgeable of the sunnah of the prayer has more right to lead. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٩٢– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ قَالَ: لا بَأْسَ بِأَنْ يَؤُمَّهُمُ الأَعْرَابِيُّ ، وَالْعَبْدُ ، وَ وَلَدُ الزِّنَا ، إِذَا قَرَأَ الْقُرْآنَ .

92. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us that Ibrāhīm said, “There is no harm in a nomadic Arab leading them in prayer,[319] or a slave or a person born out of wedlock, if he reads[320] the Qur’ān.”’”[321]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ إِذَا كَانَ فَقِيهاً عَالِماً بِأَمْرِ الصَّلَوةِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this if he is knowledgeable in *fiqh* and knowledgeable of the business of the prayer, and that is the

verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٩٣- مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلَيْنِ يَؤُمُّ أَحَدُهُمَا صَاحِبَهُ، قَالَ: يَقُومُ الْإِمَامُ فِي الْجَانِبِ الْأَيْسَرِ.

93. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning two men one of whom leads his fellow in prayer, ‘The imam stands on the left side.’”[322]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى، يَكُونُ الْمَأْمُومُ عَنْ يَمِينِ الْإِمَامِ.

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him, that the person being led in prayer stands to the right of the imam.”

٩٤- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا زَادَ عَلَى الْوَاحِدِ فِي الصَّلَوةِ فَهِيَ جَمَاعَةٌ.

94. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If there is more than one person in the prayer then it is a group (*jamāʿah*).’”[323]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٩٥- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ عَلْقَمَةَ بْنِ قَيْسٍ
وَالْأَسْوَدِ بْنِ يَزِيدَ ، قَالَا : كُنَّا عِنْدَ ابْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ إِذْ حَضَرَتِ الصَّلَوٰةُ ، فَقَامَ
يُصَلِّي ، فَقُمْنَا خَلْفَهُ ، فَأَقَامَ أَحَدَنَا عَنْ يَمِينِهِ وَالْآخَرَ عَنْ يَسَارِهِ ، ثُمَّ قَامَ بَيْنَنَا ، فَلَمَّا فَرَغَ
قَالَ : هٰكَذَا اصْنَعُوا إِذَا كُنْتُمْ ثَلَاثَةً . وَكَانَ إِذَا رَكَعَ طَبَّقَ ، وَصَلَّى بِغَيْرِ أَذَانٍ وَلَا إِقَامَةٍ .
وَقَالَ : يُجْزِئُ إِقَامَةُ النَّاسِ حَوْلَنَا .

95. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿAlqamah ibn Qays and al-Aswad ibn Yazīd said, ‘We were with Ibn Masʿūd ؓ when suddenly[324] it became time for the prayer. So he stood to pray and we stood behind him, but he made one of us stand on his right and the other on his left and then he stood between us. When he finished he said, “Do it like this[325] when you are three.” When he bowed he placed his hands together, palm to palm,[326] and he prayed without the call to prayer or the *iqāmah* saying, “The *iqāmah* of the people around us[327] suffices us.”’”[328]

قَالَ مُحَمَّدٌ : وَلَسْنَا نَأْخُذُ بِقَوْلِ ابْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ فِي الثَّلَاثَةِ ، وَلٰكِنَّا نَقُولُ : إِذَا
كَانُوا ثَلَاثَةً تَقَدَّمَهُمْ إِمَامُهُمْ ، وَصَلَّى الْبَاقِيَانِ خَلْفَهُ . وَلَسْنَا نَأْخُذُ أَيْضاً بِقَوْلِهِ فِي التَّطْبِيقِ ،
كَانَ يُطَبِّقُ بَيْنَ يَدَيْهِ إِذَا رَكَعَ ، ثُمَّ يَجْعَلُهُمَا بَيْنَ رُكْبَتَيْهِ ، وَلٰكِنَّا نَرَى أَنْ يَضَعَ الرَّجُلُ رَاحَتَيْهِ
عَلَى رُكْبَتَيْهِ ، وَيُفَرِّجَ بَيْنَ أَصَابِعِهِ تَحْتَ الرُّكْبَتَيْنِ . وَأَمَّا بِغَيْرِ أَذَانٍ وَلَا إِقَامَةٍ فَذٰلِكَ يُجْزِئُ
، وَالْأَذَانُ وَالْإِقَامَةُ أَفْضَلُ ، وَإِنْ أَقَامَ لِلصَّلَوٰةِ وَلَمْ يُؤَذِّنْ فَذٰلِكَ أَفْضَلُ مِنَ التَّرْكِ لِلْإِقَامَةِ ،
لِأَنَّ الْقَوْمَ صَلَّوْا جَمَاعَةً ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We do not adhere to the verdict of Ibn Masʿūd ؓ concerning three people, but we say that when they are three their imam should step ahead of them and the others should pray behind him. We similarly do not adhere to his verdict on placing the hands together, palm to palm, for he used to place his hands together, palm to palm, when he bowed and then place them between his knees. As for [praying] without the call to prayer or the *iqāmah*, that is sufficient but the call to prayer and the *iqāmah* are better. And if one calls the *iqāmah*[329] but does not call the *adhān* for prayer that is better than leaving out the *iqāmah* because the people have prayed in a group (*jamāʿah*). That is the verdict of Abū Ḥanīfah ؒ."

٩٦- مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّ عُمَرَ بْنَ الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ جَعَلَهُمَا خَلْفَهُ، وَصَلَّى بَيْنَ أَيْدِيهِمَا، وَكَانَ يَجْعَلُ كَفَّيْهِ عَلَى رُكْبَتَيْهِ، فَقَالَ إِبْرَاهِيمُ: صَنِيعُ عُمَرَ رَضِيَ اللَّهُ عَنْهُ أَحَبُّ إِلَيَّ.

96. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿUmar ibn al-Khaṭṭāb ؓ placed the two of them[330] behind him and prayed in front of them, and he would place his hands on his knees. Ibrāhīm said, 'The way that ʿUmar ؓ did it is preferable to me.'"[331] [332]

قَالَ مُحَمَّدٌ: وَبِهِ نَأْخُذُ، وَهُوَ أَحَبُّ إِلَيْنَا مِنْ صَنِيعِ ابْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, "We adhere to this, and it is preferable to us than the way that Ibn Masʿūd ؓ did it. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

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بَابُ مَنْ صَلَّى الْفَرِيضَةَ

31. SOMEONE WHO PRAYED THE OBLIGATORY PRAYER

٩٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا الْهَيْثَمُ بْنُ أَبِي الْهَيْثَمِ ، يَرْفَعُهُ إِلَى النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ : أَنَّ رَجُلَيْنِ من أَصْحَابِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ صَلَّيَا الظُّهْرَ فِي مَنَازِلِهِمَا ؛ وَهُمَا يُرَيَانِ أَنَّ الصَّلوةَ قَدْ صُلِّيَتْ ، فَجَاءَا ؛ وَالنَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فِي الصَّلوةِ ، فَقَعَدَا وَلَمْ يَدْخُلَا ، فَلَمَّا انْصَرَفَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ : دَعَاهُمَا ، فَأَقْبَلَا وَ مَفَاصِلُهُمَا تَرْعَدُ مَخَافَةَ أَنْ يَكُونَ حَدَثَ فِيهِمَا شَيْءٌ ، فَقَالَ لَهُمَا : مَا منعكما أَنْ تُصَلِّيَا ؟ فَقَالَا : يَا رَسُولَ اللَّهِ ! ظَنَنَّا أَنَّ الصَّلوةَ قَدْ صُلِّيَتْ ، فَصَلَّيْنَا فِي رِحَالِنَا ، ثُمَّ جِئْنَا فَوَجَدْنَاكَ فِي الصَّلوةِ ، فَظَنَنَّا أَنَّهُ لا يَصْلُحُ أَنْ نُصَلِّيَ أَيْضاً ، فَقَالَ : إِذَا كَانَ كَذَلِكَ فَادْخُلُوا فِي الصَّلوةِ ، وَاجْعَلُوا الْأُولَى فَرِيضَةً ، وَهذِهِ نَافِلَةً .

97. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Al-Haytham ibn Abī’l-Haytham narrated to us ﷺ ascribing it to the Prophet ﷺ ﷺ that two men[333] of the Companions of the Prophet ﷺ prayed *Ẓuhr* in their homes thinking that the prayer had been prayed, and then they came[334] while the Prophet ﷺ was in prayer. They sat down and did not join [the prayer]. When the Prophet ﷺ finished he called for them and they came with their flanks[335] quaking, fearful that something [revelation] might have newly come about them. He said to them, “What prevented you from praying?” They said, “Messenger of Allah, we thought that the prayer had been done and we prayed in our homes. Then we came here and found you praying, but we thought that it would be unacceptable for us to pray again.” He said, “When it is like that, then join the prayer, and regard[336] the first as the obligatory prayer and this one[337] as supererogatory.”’”[338]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى ، وَلَا يُعَادُ الْفَجْرُ وَالْعَصْرُ وَ الْمَغْرِبُ .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him. But one may not repeat *Fajr*, *ʿAṣr* and *Maghrib*.”

٩٨– مُحَمَّدٌ قَالَ : أَخْبَرَنَا مَالِكُ بْنُ أَنَسٍ عَنْ نَافِعٍ عَنِ ابْنِ عُمَرَ رَضِيَ اللّٰهُ عَنْهُمَا قَالَ
: إِذَا صَلَّيْتَ الْفَجْرَ وَالْمَغْرِبَ ثُمَّ أَدْرَكْتَهُمَا فَلَا تَعُدْ لَهُمَا غَيْرَ مَا صَلَّيْتَهُمَا .

98. Muḥammad said, “Mālik ibn Anas, may Allah, exalted is He, have mercy on him, informed us from Nāfiʿ that Ibn ʿUmar ﵄ said, ‘If you have prayed *Fajr* and *Maghrib* and then you reach them[339] do not repeat them with more than what you have already prayed.’”

قَالَ مُحَمَّدٌ : أَمَّا الْفَجْرُ وَالْعَصْرُ فَلَا يَنْبَغِي أَنْ يُصَلِّيَ بَعْدَهُمَا نَافِلَةً لِقَوْلِ رَسُولِ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ : لَا صَلَوةَ بَعْدَ الْعَصْرِ حَتَّى تَغْرُبَ الشَّمْسُ ، وَلَا صَلَوةَ بَعْدَ الْفَجْرِ حَتَّى تَطْلُعَ الشَّمْسُ . وَأَمَّا الْمَغْرِبُ فَهِيَ وِتْرٌ ، فَيُكْرَهُ أَنْ يُصَلِّيَ التَّطَوُّعَ وِتْراً ، فَإِذَا دَخَلَ مَعَهُمْ رَجُلٌ تَطَوُّعاً فَسَلَّمَ الْإِمَامُ فَلْيَقُمْ ، فَلْيُضِفْ إِلَيْهَا رَكْعَةً رَابِعَةً ، وَيَتَشَهَّدُ وَيُسَلِّمُ ، وَهَذَا كُلُّهُ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللّٰهُ تَعَالَى .

Muḥammad said, “As for *Fajr* and *ʿAṣr* one ought not to pray supererogatory prayers after them because of the saying of the Messenger of Allah ﷺ, ‘There is no prayer[340] after *ʿAṣr* until the sun sets, nor is there any prayer after *Fajr* until the sun rises.’ As for *Maghrib* it is an odd number [of *rakʿahs*] and praying supererogatory prayers with an odd number [of *rakʿahs*] is disapproved.[341] So if a man joins them as supererogation, when the imam says the *salām*, let him add[342] a fourth *rakʿah* to it, and say the *tashahhud* and the *salām*. This is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

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بَابُ الصَّلَوةِ تَطَوُّعاً

32. SUPEREROGATORY PRAYERS

٩٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا أبو سُفْيَانَ عَنِ الْحَسَنِ الْبَصْرِيِّ ، أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ كَانَ يُصَلِّي وَهُوَ مُحْتَبٍ تَطَوُّعاً .

99. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Abū Sufyān[343] narrated to us from al-Ḥasan al-Baṣrī that the Messenger of Allah ﷺ used to pray while sitting in *iḥtibā’*[344] in supererogatory prayers.’”[345]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ لَا نَرَى بَأْساً بِذَلِكَ ، فَإِذَا بَلَغَ السُّجُودَ حَلَّ حَبْوَتَهُ وَسَجَدَ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and see no harm in it. Then when one reaches the prostration one unties[346] the cloth[347] and prostrates. This is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

١٠٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا أَبُو جَعْفَرٍ قَالَ : كَانَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يُصَلِّي مَا بَيْنَ صَلَوةِ الْعِشَاءِ الْآخِرَةِ إِلَى صَلَوةِ الْفَجْرِ ثَلَاث عَشْرَةَ رَكْعَةً ، ثَمَانِيَ رَكَعَاتٍ تَطَوُّعاً ، وَثَلَاثَ رَكَعَاتِ الْوِتْرِ ، وَرَكْعَتَي الْفَجْرِ .

100. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Abū Jaʿfar[348] narrated to us saying, “The Messenger of Allah ﷺ used to pray thirteen *rakʿahs* between the prayer of *ʿIshā’*[349] and the prayer of *Fajr:* eight supererogatory *rakʿahs*, three *rakʿahs*[350] of *witr* and the two *rakʿahs* of *Fajr*.”’”[351] [352]

١٠١– مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حُصَيْنِ بْنِ عَبْدِ الرَّحْمَنِ، قَالَ: كَانَ عَبْدُ
اللَّهِ بْنُ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا يُصَلِّي التَّطَوُّعَ عَلَى رَاحِلَتِهِ أَيْنَمَا تَوَجَّهَتْ بِهِ، فَإِذَا كَانَتِ
الْفَرِيضَةُ أَوِ الْوِتْرُ؛ نَزَلَ فَصَلَّى.

101. Muḥammad said, "Abū Ḥanīfah informed us that Ḥuṣayn ibn ʿAbd ar-Raḥmān said, "ʿAbdullāh ibn ʿUmar ؓ used to pray supererogatory prayers on his mount in whatever direction it would turn with him. Then when it was the obligatory prayer or the *witr*[353] he would dismount and pray.'"[354]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

١٠٢– مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُو حَنِيفَةَ، عَنْ حَمَّادٍ، عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يَدْخُلُ فِي
صَلوةِ الْقَوْمِ وَلَيْسَ يَنْوِيهَا، قَالَ: هِيَ تَطَوُّعٌ.

102. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who joined people in prayer without intending [the obligatory prayer], 'It is a supererogatory prayer.'"

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَ إِنَّمَا يَعْنِي بِذَلِكَ أَنْ يَكُونَ قَدْ صَلَّى الصَّلوةَ فِي مَنْزِلِهِ، ثُمَّ
أَتَى الْقَوْمَ، فَدَخَلَ مَعَهُمْ فِي صَلوتِهِمْ، فَإِنَّ صَلوتَهُ مَعَهُمْ تَطَوُّعٌ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ
رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, "We adhere to this. He only meant by that if someone had already prayed the prayer in his house and then came and joined the people in their prayer, that his prayer along with them is supererogatory. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

بَابُ الصَّلوٰةِ فِي الطَّاقِ

33. PRAYER IN THE *MIḤRĀB*

١٠٣- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّهُ كَانَ يَؤُمُّهُمْ ، فَيَقُومُ عَنْ يَسَارِ الطَّاقِ أَوْ عَنْ يَمِينِهِ .

103. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm used to lead them in prayer standing to the left of the *miḥrāb*[355] or to its right.”

قَالَ مُحَمَّدٌ : و أَمَّا نَحْنُ فَلَا نَرَى بَأْساً أَنْ يَقُومَ بِحِيَالِ الطَّاقِ مَا لَمْ يَدْخُلْ فِيهِ ، إِذَا كَانَ مَقَامُهُ خَارِجاً مِنْهُ وَسُجُودُهُ فِيهِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللّٰهُ تَعَالَى .

Muḥammad said, “As for us, we see no harm in standing in front of[356] the *miḥrāb* as long as one does not enter it, if one stands outside it[357] and prostrates within it. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

بَابُ تَسْلِيمِ الْإِمَامِ وَجُلُوسِهِ

34. THE IMAM SAYING THE *SALĀM* AND HIS SITTING

١٠٤- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا سَلَّمَ الْإِمَامُ فَلَا يَتَحَوَّلِ الرَّجُلُ حَتَّى يَنْفَتِلَ الْإِمَامُ ، إِلَّا أَنْ يَكُونَ الْإِمَامُ لَا يَفْقَهُ .

104. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘When the imam says the *salām* do not move

away[358] until the imam gets up from his place,[359] unless the imam has no *fiqh*.'"[360]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ لِأَنَّهُ لَا يَدْرِي لَعَلَّ عَلَيْهِ سَجْدَتَي السَّهْوِ ، فَإِذَا كَانَ مِمَّنْ لَا يَفْقَهُ أَمْرَ الصَّلٰوةِ فَلَا بَأْسَ بِالْانْفِتَالِ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this because one does not know[361] whether or not he[362] may have to do the two prostrations of forgetfulness. If the imam is someone who does not know the *fiqh*[363] of the prayer there is no harm in getting up and leaving. That is the verdict of Abū Ḥanīfah ؒ."

١٠٥- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ ، عَنْ أَبِي الضُّحَى عَنْ مَسْرُوقٍ أَنَّ أَبَا بَكْرٍ الصِّدِّيقَ رَضِيَ اللَّهُ عَنْهُ كَانَ إِذَا سَلَّمَ فِي الصَّلٰوةِ ، كَأَنَّهُ عَلَى الرَّضْفِ الْحِجَارَةِ الْمُحَمَّاةِ حَتَّى يَنْفَتِلَ .

105. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Abū'ḍ-Ḍuḥā from Masrūq that when Abū Bakr aṣ-Ṣiddīq ؓ said the *salām* after the prayer he used to be as if he were sitting on hot stones[364] until he had moved from his place."[365]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

١٠٦- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّهُ قَالَ فِي الرَّجُلِ يُصَلِّي فِي الْمَكَانِ الضَّيِّقِ، لَا يَسْتَطِيعُ أَنْ يَجْلِسَ عَلَى جَانِبِهِ الْأَيْسَرِ أَوْ تَكُونُ بِهِ عِلَّةٌ قَالَ: فَلْيَجْلِسْ عَلَى جَانِبِهِ الْأَيْمَنِ ، فَإِنْ كَانَ يَسْتَطِيعُ فَلْيَجْلِسْ عَلَى جَانِبِهِ الْأَيْسَرِ .

106. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who prays in a narrow place

such that he is unable[366] to sit on his left side, or in the case where he is ailing, ‘Then let him sit on his right side, and if he is able let him sit on his left side.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

١٠٧– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا كَانَ بِالرَّجُلِ عِلَّةٌ جَلَسَ فِي الصَّلَوةِ كَيْفَ شَاءَ .

107. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man is ailing let him sit in the prayer however he wants.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، إِذَا كَانَتِ الْعِلَّةُ تَمْنَعُهُ من جُلُوسِ الصَّلَوةِ الَّذِي أُمِرَ بِهِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this, if his illness prevents him from the sitting posture in the prayer that is commanded.[367] That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

١٠٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : السَّلَامُ يَقْطَعُ مَا بَيْنَ الصَّلَاتَيْنِ .

108. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘The *salām* is what creates a break[368] between two prayers.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ فَضْلِ الْجَمَاعَةِ وَرَكْعَتَي الْفَجْرِ

35. THE SUPERIORITY OF THE GROUP PRAYER AND OF THE TWO *RAKʿAHS* OF *FAJR*

١٠٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ: أَرْبَعٌ قَبْلَ الظُّهْرِ، وَأَرْبَعٌ بَعْدَ الْجُمُعَةِ لَا يَفْصِلُ بَيْنَهُنَّ بِتَسْلِيمٍ.

109. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘There are four before *Ẓuhr* and four after the Jumuʿah which one does not separate with a *salām*.’”[369]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

١١٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ سَعِيدِ بْنِ جُبَيْرٍ قَالَ : صَلَوةُ الرَّجُلِ فِي الْجَمَاعَةِ تَفْضُلُ عَلَى صَلَوةِ الرَّجُلِ وَحْدَهُ خَمْساً وَّعِشْرِينَ صَلَوةً.

110. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Saʿīd ibn Jubayr said, ‘A man’s prayer with the group is twenty-five[370] prayers better than a man’s prayer alone.’”

١١١– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا الحَارِثُ بْنُ زِيَادٍ ، أَوْ مُحَارِبُ بْنُ
دِثَارٍ – الشَّكُّ مِنْ مُحَمَّدٍ – عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا قَالَ: مَنْ صَلَّى
أَرْبَعَ رَكَعَاتٍ بَعْدَ الْعِشَاءِ الْآخِرَةِ وَ قَبْلَ أَنْ يَخْرُجَ مِنَ الْمَسْجِدِ فَإِنَّهُنَّ يَعْدِلْنَ أَرْبَعَ رَكَعَاتٍ
مِن لَيْلَةِ الْقَدْرِ .

111. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Al-Ḥārith ibn Ziyād or Muḥārib ibn Dithār’ (Muḥammad being in doubt[371] as to which) ‘narrated to us that ʿAbdullāh ibn ʿUmar ؓ said, “Whoever prays four *rakʿahs* after *ʿIshā’* before leaving the mosque, then they are equal[372] to four *rakʿahs* on Laylat al-Qadr.”’”

١١٢– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ: حَدَّثَنَا عَلْقَمَةُ بْنُ مَرْثَدٍ عَنْ عَلِيٍّ عَنْ
حُمْرَانَ قَالَ: مَا أُلْقَى ابْنُ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا يُحَدِّثُ إِلَّا وَحُمْرَانُ مِنْ أَقْرَبِ النَّاسِ
مِنْهُ مَجْلِساً ، قَالَ: فَقَالَ لَهُ ذَاتَ يَوْمٍ : يَا حُمْرَانُ ، إِنِّي لَأَرَاكَ مَا لَزِمْتَنَا إِلَّا لِنُقْبِسَكَ
خَيْراً ، قَالَ: أَجَلْ يَا أَبَا عَبْدِ الرَّحْمَنِ ، قَالَ : انْظُرْ ثَلَاثاً ، أَمَّا اثْنَتَانِ؛ فَأَنْهَاكَ عَنْهُمَا ،
وَأَمَّا وَاحِدَةٌ؛ فَآمُرُكَ بِهَا . قَالَ : مَا هُنَّ يَا أَبَا عَبْدِ الرَّحْمَنِ؟ قَالَ: لَا تَمُوتَنَّ وَعَلَيْكَ
دَيْنٌ إِلَّا دَيْناً تَدَعُ لَهُ وَفَاءً ، وَلَا تَنْتَفِيَنَّ مِنْ وَلَدٍ لَكَ أَبَداً ؛ فَإِنَّهُ يُسَمِّعُ بِكَ يَوْمَ الْقِيَامَةِ كَمَا
سَمَّعْتَ بِهِ فِي الدُّنْيَا قِصَاصاً ، لَا يَظْلِمُ رَبُّكَ أَحَداً ، وَانْظُرْ رَكْعَتَيِ الْفَجْرِ ، فَلَا تَدَعْهُمَا
فَإِنَّهُمَا مِنَ الرَّغَائِبِ .

112. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘ʿAlqamah ibn Marthad narrated to us from ʿAlī [ibn al-Aqmar] from Ḥumrān. [ʿAlī] said, “Ibn ʿUmar ؓ was never to be seen narrating but that Ḥumrān was one of the closest people to him in the assembly.” [ʿAlī] said, “So he said to him one day, ‘I think[373] that you cling so close to us so that we can bring you some good.’ He said, ‘Of course, Abū ʿAbd ar-Raḥmān.’[374] He said, ‘Watch out[375] for three things, two of which I forbid you and one of which I command you to do.’

He asked, ‘What are they Abū ʿAbd ar-Raḥmān?’ He said, ‘Do not die owing a debt except a debt for which you leave payment.[376] Never repudiate a child of yours, because in retaliation he will make you notorious for it on the day of Rising just as you gave him notoriety[377] in the world. Your Lord does not wrong anyone. Take care of the two *rakʿahs* of *Fajr* and do not give them up because they are of the highly desired matters.’”’”

١١٣– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا مَعْنُ بْنُ عَبْدِ الرَّحْمَنِ عَنِ الْقَاسِمِ بْنِ عَبْدِ الرَّحْمَنِ عَنْ أَبِيهِ عَنْ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ، قَالَ: وَقِّرُوا الصَّلوٰةَ – يَعْنِي السُّكُونَ فِيهَا .

113. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Maʿn ibn ʿAbd ar-Raḥmān narrated to us from al-Qāsim ibn ʿAbd ar-Raḥmān from his father that ʿAbdullāh ibn Masʿūd ؓ said, ‘Treat the prayer with dignity,’[378] meaning be still in it.”[379]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ مَنْ صَلَّى وَبَيْنَهُ وَبَيْنَ الْإِمَامِ حَائِطٌ أَوْ طَرِيقٌ

36. SOMEONE WHO PRAYS WITH A WALL OR A PATHWAY BETWEEN HIM AND THE IMAM

١١٤– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ قَالَ : سَأَلْتُ إِبْرَاهِيمَ عَنِ الْمُؤَذِّنِينَ ، يُؤَذِّنُونَ فَوْقَ الْمَسْجِدِ ثُمَّ يُصَلُّونَ فَوْقَ الْمَسْجِدِ ، قَالَ : يُجْزِئُهُمْ .

114. Muḥammad said, “Abū Ḥanīfah informed us that Ḥammād said, ‘I asked Ibrāhīm about *mu’adhdhins* calling people to prayer from on top of the mosque and then praying on top of the mosque. He said, “It is acceptable from them.”’”[380]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ مَا لَمْ يَكُونُوا قُدَّامَ الْإِمَامِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to that as long as they are not ahead of the imam. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

١١٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يَكُونُ بَيْنَهُ وَبَيْنَ الْإِمَامِ حَائِطٌ قَالَ: حَسَنٌ ، مَا لَمْ يَكُنْ بَيْنَهُ وَ بَيْنَ الْإِمَامِ طَرِيقٌ أَوْ نِسَاءٌ .

115. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man between whom and the imam there is a wall, ‘That is fine, as long as there is not a pathway[381] or women[382] between him and the imam.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

قَالَ مُحَمَّدٌ : وَهُوَ قَوْلُ أَبِي حَنِيفَةَ ، وَبِهِ نَأْخُذُ .

37. WIPING DUST FROM THE FACE BEFORE FINISHING THE PRAYER

١١٦- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ قَالَ : رَأَيْتُ إِبْرَاهِيمَ يُصَلِّي فِي الْمَكَانِ (الَّذِي) فِيهِ الرَّمْلُ وَالتُّرَابُ الْكَثِيرُ ، فَيَمْسَحُ عَنْ وَجْهِهِ قَبْلَ أَنْ يَنْصَرِفَ .

116. Muḥammad said, “Abū Ḥanīfah informed us that Ḥammād said, ‘I saw Ibrāhīm praying in a place in which there was a great deal of sand and dust, and he wiped it off his face before he had finished.’”[383]

قَالَ مُحَمَّدٌ : لَا نَرَى بَأْساً بِمَسْحِه ذَلِكَ قَبْلَ التَّشَهُّدِ وَالتَّسْلِيم ، لِأَنَّ تَرْكَهُ يُؤْذِي الْمُصَلِّيَ وَرُبَّمَا يَشْغَلُهُ عَنْ صَلَاتِه ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We see no harm[384] in wiping that off before the *tashahhud* and the *salām*, because leaving it annoys the person praying and would probably distract him from the prayer. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ الصَّلَوةِ قَاعِداً وَالتَّعَمُّدِ عَلَى شَيْءٍ أَوْ يُصَلِّي إِلَى سُتْرَةٍ

38. PRAYER SEATED OR LEANING ON SOMETHING AND PRAYING TOWARDS A *SUTRAH*

١١٧- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ سَعِيدِ بْنِ جُبَيْرٍ قَالَ: صَلَوةُ الرَّجُلِ قَاعِدًا عَلَى مِثْلِ نِصْفِ صَلَوةِ الرَّجُلِ قَائِمًا ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

117. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Saʿīd ibn Jubayr said, ‘The prayer of a man seated is half the value of the prayer of a man standing.’” [Muḥammad said], “That is

the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."[385]

١١٨– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ: لَا يُجْزِئُ الرَّجُلَ
أَنْ يَعْرِضَ بَيْنَ يَدَيْهِ سَوْطًا ، وَلَا قَصَبَةً حَتَّى يَنْصِبَهُ نَصْبًا .

118. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, 'It is not enough[386] for a man to place[387] a whip or a cane in front of him unless he set it up erect.'"[388]

قَالَ مُحَمَّدٌ : النَّصْبُ أَحَبُّ إِلَيْنَا ، فَإِنْ لَمْ يَفْعَلْ ؛ أَجْزَأَتْهُ صَلَاتُهُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ
رَحِمَهُ اللّٰهُ تَعَالَى .

Muḥammad said, "Setting something erect is preferable to us, but if one does not do it,[389] his prayer is valid. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

١١٩– مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّ عَبْدَ اللّٰهِ بْنَ عُمَرَ رَضِيَ
اللّٰهُ عَنْهُمَا كَانَ إِذَا سَجَدَ فَأَطَالَ اعْتَمَدَ بِمِرْفَقَيْهِ عَلَى فَخِذَيْهِ .

119. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that when ʿAbdullāh ibn ʿUmar ؓ prostrated for a long time he would rest[390] his elbows on his thighs."

قَالَ مُحَمَّدٌ : وَلَسْنَا نَرَى بِذَلِكَ بَأْساً ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللّٰهُ تَعَالَى .

Muḥammad said, "We see no harm in that. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

١٢٠– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّ رَسُولَ اللّٰهِ صَلَّى اللّٰهُ
عَلَيْهِ وَسَلَّمَ كَانَ يَعْتَمِدُ بِإِحْدَى يَدَيْهِ عَلَى الْأُخْرَى فِي الصَّلٰوةِ ، يَتَوَاضَعُ لِلّٰهِ تَعَالَى .

120. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that the Messenger of Allah ﷺ used to rest[391] one

hand on the other in prayer showing humility to Allah, exalted is He."[392]

قَالَ مُحَمَّدٌ : وَيَضَعُ بَطْنَ كَفِّهِ الْأَيْمَنِ عَلَى رُسْغِهِ الْأَيْسَرِ تَحْتَ السُّرَّةِ، فَيَكُونُ الرُّسْغُ فِي وَسَطِ الْكَفِّ.

Muḥammad said, "He places the palm of his right hand on the wrist of his left hand underneath the navel,[393] so that the wrist is in the middle of the palm."

١٢١- مُحَمَّدٌ قَالَ : أَخْبَرَنَا الرَّبِيعُ بْنُ صَبِيحٍ ، عَنْ أَبِي مَعْشَرٍ عَنْ إِبْرَاهِيمَ أَنَّهُ كَانَ يَضَعُ يَدَهُ الْيُمنى عَلَى يَدِهِ الْيُسْرى تَحْتَ السُّرَّةِ.

121. Muḥammad said, "Ar-Rabīʿ ibn Ṣabīḥ informed us from Abū Maʿshar[394] that Ibrāhīm used to place his right hand on his left hand under the navel."

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

◆

بَابُ الْوِتْرِ وَمَا يُقْرَأُ فِيهَا

39. THE *WITR* AND WHAT ONE RECITES IN IT

١٢٢- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا زُبَيْدٌ الْيَامِي عَنْ ذَرٍّ الْهَمْدَانِيِّ (عَنْ سَعِيدِ بْنِ عَبْدِ الرَّحْمَنِ بْنِ أَبْزَى عَنْ أَبِيهِ رَضِيَ اللَّهُ عَنْهُ قَالَ : كَانَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقْرَأُ) فِي الْوِتْرِ ، فِي الرَّكْعَةِ الْأُولَى ﴿ سَبِّحِ اسْمَ رَبِّكَ الْأَعْلَى ﴾ وَفِي الثَّانِيَةِ ﴿ قُلْ لِلَّذِينَ كَفَرُوا ﴾ يَعْنِي ﴿ قُلْ يَا أَيُّهَا الْكَافِرُونَ ﴾ وَهِيَ هَكَذَا فِي قِرَاءَةِ ابْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ ، وَ فِي الثَّالِثَةِ ﴿ قُلْ هُوَاللَّهُ أَحَدٌ ﴾ .

122. Muḥammad said, "Abū Ḥanīfah informed us saying, 'Zubayd al-Yāmī narrated to us from Dharr al-Hamdānī[395] (from Saʿīd ibn ʿAbd ar-Raḥmān ibn Abzā that his father ؓ said, "The Messenger of Allah ﷺ used to recite[396]) in the *witr*, in the first *rakʿah*, '*Glorify the Name of your Lord, the Most High…*' (Sūrat al-Aʿlā), and in the second, '*Say to the ones who are kāfir…*' meaning, '*Say: "Kāfirūn!…*"' (Sūrat al-Kāfirūn) which is thus in the recitation of Ibn Masʿūd ؓ, and in the third, '*Say: He is Allah, Absolute Oneness,…*' (Sūrat al-Ikhlāṣ).""'"[397]

قَالَ مُحَمَّدٌ : إِنْ قَرَأْتَ بِهَذَا فَهُوَ حَسَنٌ ، وَمَا قَرَأْتَ مِنَ الْقُرْآنِ فِي الْوِتْرِ مَعَ فَاتِحَةِ الْكِتَابِ فَهُوَ أَيْضاً حَسَنٌ ، إِذَا قَرَأْتَ مَعَ فَاتِحَةِ الْكِتَابِ بِثَلَاثِ آيَاتٍ فَصَاعِدًا ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, "If you recite this then that is good. Whatever of the Qur'ān you recite in the *witr* along with the Fātiḥah of the Book is also good, if you recite three *āyāt* or more along with the Fātiḥah of the Book. That is the verdict of Abū Ḥanīfah."

١٢٣- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ عُمَرَ بْنِ الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ أَنَّهُ قَالَ : مَا أُحِبُّ أَنِّي تَرَكْتُ الْوِتْرَ بِثَلَاثٍ وَأَنَّ لِي حُمْرَ النَّعَمِ .

123. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿUmar ibn al-Khaṭṭāb ؓ said, 'I would not like

to[398] leave off doing the *witr* with three [*rakʿahs*] even if I were to have red camels.'"[399]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، الْوِتْرُ ثَلَاثٌ لَا يَفْصِلُ بَيْنَهُنَّ بِتَسْلِيمٍ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this. The *witr* is three *rakʿahs* without separating them by a *salām*. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

١٢٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّهُ قَالَ : إِذَا أَصْبَحَ وَلَمْ يُوتِرْ فَلَا وِتْرَ .

124. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, 'If one wakes up in the morning without having done the *witr* then there is no *witr*.'"[400]

قَالَ مُحَمَّدٌ : وَلَسْنَا نَأْخُذُ بِهَذَا ، يُوتِرُ عَلَى كُلِّ حَالٍ إِلَّا فِي سَاعَةٍ تُكْرَهُ فِيهَا الصَّلَوةُ ، حِينَ تَطْلُعُ الشَّمْسُ أَوْ يَنْتَصِفُ النَّهَارُ حَتَّى تَزُولَ أَوْ عِنْدَ احْمِرَارَ الشَّمْسِ حَتَّى تَغِيبَ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, "We do not adhere to this. One does the *witr* in any case[401] except at that time at which prayer is abhorent: when the sun rises, in the middle of the day up until the declination, or at the redness of sunset until it has set. That is the verdict of Abū Ḥanīfah."

بَابُ مَنْ سَمِعَ الْإِقَامَةَ وَهُوَ فِي الْمَسْجِدِ

40. WHOEVER HEARS THE *IQĀMAH* WHILE IN THE MOSQUE

١٢٥– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يُصَلِّي الْفَرِيضَةَ فِي الْمَسْجِدِ ، فَيُقِيمُ الْمُؤَذِّنُ وَهُوَ فِي الرَّكْعَةِ ، قَالَ : يُتِمُّ إِلَيْهَا رَكْعَةً أُخْرَى ، ثُمَّ يَدْخُلُ فِي صَلوةِ الْقَوْمِ بِتَكْبِيرٍ ، فَإِذَا صَلَّى الْإِمَامُ رَكْعَتَيْنِ وَجَلَسَ فَتَشَهَّدَ ؛ سَلَّمَ الرَّجُلُ عَنْ يَمِينِهِ ، وَعَنْ شِمَالِهِ فِي نَفْسِهِ ، ثُمَّ يَقُومُ فَيُكَبِّرُ ، وَيُصَلِّي مَعَ الْإِمَامِ مَا بَقِيَ من صَلَاتِهِ تَطَوُّعًا ، لَا يَدْخُلُ فِي صَلوةِ الْقَوْمِ إِلَّا فِي شَفْعٍ مِنْ صَلَاتِهِ ، وَقَالَ عَامِرٌ الشَّعْبِيُّ : يُضِيفُ إِلَيْهَا رَكْعَةً أُخْرَى ، وَيَنْصَرِفُ ، ثُمَّ يَدْخُلُ مَعَ الْقَوْمِ ،

125. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning the man who is praying an obligatory prayer in the mosque and the *mu’adhdhin* calls the *iqāmah* while he is in the middle of a *rakʿah,*[402] ‘He completes it with another *rakʿah*,’ and then he joins[403] people in prayer [saying] the *takbīr*. When the imam has prayed two *rakʿahs*, sits down and does the *tashahhud*, the man should say the *salām*[404] to his right and to his left but within himself,[405] then stand[406] and say the *takbīr*[407] and pray what is left of his prayer as a supererogatory prayer, only joining the people in prayer for the even [number of *rakʿahs*][408] of his prayer.’ ʿĀmir ash-Shaʿbī said, ‘He should join another *rakʿah* to it,[409] finish that and then join the people.’”

قَالَ مُحَمَّدٌ : قَوْلُ الشَّعْبِيِّ أَحَبُّ إِلَيْنَا ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “The verdict of ash-Shaʿbī is preferable to us, and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

بَابُ مَنْ سُبِقَ بِشَيْءٍ مِن صَلَاتِهِ

41. SOMEONE WHO MISSES[410] PART OF THE PRAYER

١٢٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا دَخَلَ فِي
الْمَسْجِدِ ؛ وَالْقَوْمُ رُكُوعٌ فَلْيَرْكَعْ من غَيْرِ أَنْ يَشْتَدَّ .

126. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘When someone enters the mosque and the people are bowing, let him bow[411] without doing it in haste [and then advance to the row].’”

قَالَ مُحَمَّدٌ : وَلَسْنَا نَأْخُذُ بِهَذَا ، وَلَكِنْ يَمْشِي عَلَى هِينَةٍ ، حَتَّى يُدْرِكَ الصَّفَّ ، فَيُصَلِّي
مَا أَدْرَكَ وَيَقْضِي مَا فَاتَهُ .

Muḥammad said, “We do not adhere to this, but rather he should walk with stillness and dignity[412] until he reaches the row, then pray what he catches and make up what he misses.”

١٢٧– مُحَمَّدٌ عَنِ الْمُبَارَكِ بْنِ فَضَالَةَ عَنِ الْحَسَنِ الْبَصْرِيِّ عَنْ أَبِي بَكْرَةَ رَضِيَ اللَّهُ عَنْهُ
أَنَّهُ رَكَعَ دُونَ الصَّفِّ ثُمَّ مَشَى حَتَّى وَصَلَ الصَّفَّ ، فَذَكَرَ ذَلِكَ لِرَسُولِ اللَّهِ صَلَّى اللَّهُ
عَلَيْهِ وَسَلَّمَ ، فَقَالَ : زَادَكَ اللَّهُ حِرْصاً ، وَلَا تَعُدْ .

127. Muḥammad from al-Mubārak ibn Faḍālah from al-Ḥasan al-Baṣrī that Abū Bakrah ؓ bowed before reaching the row and walked until he joined the row. So he mentioned that to the Messenger of Allah ﷺ who said, “May Allah increase you in your earnestness,[413] but do not do it again.”[414]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، نَرَى ذَلِكَ مُجْزِئاً ، وَلَا يُعْجِبُنَا أَنْ يَفْعَلَ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ
رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. We regard it as sufficing him but we are not pleased that he do it. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

١٢٨- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّهُ قَالَ فِي الرَّجُلِ يَأْتِي الْمَسْجِدَ يَوْمَ الْجُمُعَةِ؛ وَالْإِمَامُ قَدْ جَلَسَ فِي آخِرِ صَلَاتِهِ قَالَ : يُكَبِّرُ تَكْبِيرَةً فَيَدْخُلُ مَعَهُمْ فِي صَلَاتِهِمْ ثُمَّ يُكَبِّرُ تَكْبِيرَةً، فَيَجْلِسُ مَعَهُمْ فَيَتَشَهَّدُ ، فَإِذَا سَلَّمَ الْإِمَامُ قَامَ فَرَكَعَ رَكْعَتَيْنِ .

128. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who comes to the mosque on the day of Jumuʿah[415] when the imam is seated at the end of his prayer,[416] ‘He says a single *takbīr*[417] and joins them in their prayer, and then he says *takbīr*[418] and sits down with them and says the *tashahhud*. When the imam says the *salām*, he stands up and prays two *rakʿahs*.’”

قَالَ مُحَمَّدٌ : وَهُوَ قَوْلُ أَبِي حَنِيفَةَ، وَلَسْنَا نَأْخُذُ بِهَذَا ، مَنْ أَدْرَكَ مِنَ الْجُمُعَةِ رَكْعَةً؛ أَضَافَ إِلَيْهَا أُخْرَى ، وَإِنْ أَدْرَكَهُمْ جُلوساً ؛ صَلَّى أَرْبَعًا ، وَبِذَلِكَ جَاءَتِ الْآثَارُ مِن غَيْرِ وَاحِدٍ .

Muḥammad said, “We do not adhere to this.[419] Whoever catches a *rakʿah* of the Jumuʿah adds another to it, but if one catches up on them while they are seated, one prays four *rakʿahs*. Traditions from more than one person are reported to that effect.”

١٢٩- مُحَمَّدٌ قَالَ : أَخْبَرَنَا سَعِيدُ بْنُ أَبِي عَرُوبَةَ عَنْ قَتَادَةَ عَنْ أَنَسِ بْنِ مَالِكٍ رَضِيَ اللَّهُ عَنْهُ، وَ الْحَسَنِ، وَ سَعِيدِ بْنِ الْمُسَيَّبِ، وَخِلَاسِ بْنِ عَمْرٍو أَنَّهُمْ قَالُوا : مَنْ أَدْرَكَ مِنَ الْجُمُعَةِ رَكْعَةً أَضَافَ إِلَيْهَا أُخْرَى ، وَمَنْ أَدْرَكَهُمْ جُلُوسًا صَلَّى أَرْبَعًا ، وَكَذَلِكَ بَلَغَنَا أَيْضاً عَنْ عَلْقَمَةَ بْنِ قَيْسٍ وَالْأَسْوَدِ بْنِ يَزِيدَ ، وَهُوَ قَوْلُ سُفْيَانَ الثَّوْرِيِّ وَزُفَرَ بْنِ الْهُذَيْلِ وَبِهِ نَأْخُذُ .

129. Muḥammad said, “Saʿīd ibn Abī ʿArūbah informed us from Qatādah that Anas ibn Mālik ﵁, al-Ḥasan, Saʿīd ibn al-Musayyab and Khilās ibn ʿAmr said, ‘Whoever catches a *rakʿah* of the Jumuʿah, adds another to it, but whoever catches them while they are seated prays four *rakʿahs*.’ Thus it has also reached us from ʿAlqamah ibn Qays and al-Aswad ibn Yazīd, and it is the verdict of Sufyān ath-Thawrī and Zufar ibn al-Hudhayl, and to it we adhere.”[420] [421]

١٣٠– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّ مَسْرُوقًا وَجُنْدُباً دَخَلَا فِي صَلَوةِ الْإِمَامِ فِي الْمَغْرِبِ، فَأَدْرَكَا مَعَهُ رَكْعَةً، وَسَبَقَهُمَا بِرَكْعَتَيْنِ ، فَصَلَّيَا مَعَهُ رَكْعَةً، ثُمَّ قَامَا يَقْضِيَانِ، فَأَمَّا مَسْرُوقٌ؛ فَجَلَسَ فِي الرَّكْعَةِ الْأُولَى الَّتِي قَضَى، وَأَمَّا جُنْدَبُ؛ فَقَامَ فِي الْأُولَى، وَجَلَسَ فِي الثَّانِيَةِ. فَلَمَّا انْصَرَفَا ؛ أَقْبَلَ كُلُّ وَاحِدٍ مِنْهُمَا عَلَى صَاحِبِهِ، ثُمَّ إِنَّهُمَا تَسَاوَقَا إِلَى عَبْدِ اللهِ بْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ، فَقَصَّا عَلَيْهِ الْقِصَّةَ، فَقَالَ: كِلَاكُمَا قَدْ أَحْسَنَ، وَأَنْ أُصَلِّيَ كَمَا صَلَّى مَسْرُوقٌ أَحَبُّ إِلَيَّ.

130. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that Masrūq and Jundub joined the imam’s prayer of *Maghrib* catching a *rakʿah* with him before which he had previously performed two *rakʿahs*, so they prayed a *rakʿah* with him and then stood to make up what they had missed. As for Masrūq, he sat after the first *rakʿah*[422] that he was making up, but Jundub stood after the first *rakʿah* and sat in the second. When they had finished, each one turned to the other.[423] They went together[424] to ʿAbdullāh ibn Masʿūd ﵁ and told him the story. He said, ‘Both of you have done well, but that I should pray as Masrūq did is preferable to me.’”

قَالَ مُحَمَّدٌ : وَبِقَوْلِ ابْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ نَأْخُذُ، يَجْلِسُ فِي الرَّكْعَتَيْنِ جَمِيعًا اللَّتَيْنِ فَاتَتَاهُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, “We adhere to the verdict of Ibn Masʿūd ﵁. The person sits in both of the two *rakʿahs* that he missed. That is the

verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

١٣١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي رَجُلٍ سَبَقَهُ الْإِمَامُ
بِشَيْءٍ مِنْ صَلَاتِهِ ، أَيَتَشَهَّدُ كُلَّمَا جَلَسَ الْإِمَامُ ؟ قَالَ : نَعَمْ. قَالَ : فَيَرُدُّ السَّلَامَ إِذَا سَلَّمَ
الْإِمَامُ؟ قَالَ : إِذَا فَرَغَ مِن صَلَاتِهِ رَدَّ السَّلَامَ.

131. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that when Ibrāhīm was asked concerning a man whom the imam had preceded with any part of the prayer, ‘Should he say the *tashahhud*[425] every time the imam sits,’ he said, ‘Yes.’ He asked,[426] ‘Should he return the *salām* when the imam says the *salām*?’ He said,[427] ‘When he finishes his prayer, he should return the *salām*.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ مَنْ صَلَّى فِي بَيْتِهِ بِغَيْرِ أَذَانٍ

42. SOMEONE WHO PRAYS IN HIS HOUSE WITHOUT AN *ADHĀN*

١٣٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَن ابْنِ مَسْعُودٍ رَضِيَ
اللَّهُ عَنْهُ أَنَّهُ أَمَّ أَصْحَابَهُ فِي بَيْتِهِ بِغَيْرِ أَذَانٍ وَلَا إِقَامَةٍ ، وَقَالَ : إِقَامَةُ الْإِمَامِ تُجْزِئُ.

132. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that Ibn Masʿūd ﵁ led his companions[428] in prayer in his house without an *adhān* or *iqāmah* and said, ‘The imam’s *iqāmah* [in the mosque] suffices.’”[429]

قَالَ مُحَمَّدٌ : وَبِهَذَا نَأْخُذُ إِذَا صَلَّى الرَّجُلُ وَحْدَهُ ، فَإِذَا صَلَّوْا فِي جَمَاعَةٍ فَأَحَبُّ إِلَيْنَا
أَنْ يُؤَذِّنَ وَيُقِيمَ ، فَإِنْ أَقَامَ وَتَرَكَ الْأَذَانَ فَلَا بَأْسَ .

Muḥammad said, “We adhere to this if the man prays by himself, but if he prays in the group it is preferable to us[430] that he call the *adhān* and the *iqāmah*. However, if he calls the *iqāmah* and leaves out the *adhān* there is no harm in that.”

◆

بَابُ مَا يَقْطَعُ الصَّلَوةَ

43. WHAT INVALIDATES THE PRAYER

١٣٣ - مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا فَسَدَتْ صَلَوةُ
الْإِمَامِ فَسَدَتْ صَلَوةُ من خَلْفَهُ .

133. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If the imam’s prayer is invalid then the prayer of those behind him is invalid.’”[431]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ إِذَا صَلَّى الرَّجُلُ بِأَصْحَابِهِ جُنُبًا ، أَوْ عَلَى غَيْرِ وُضُوءٍ ، أَوْ
فَسَدَتْ صَلَاتُه بِوَجْهٍ من الْوُجُوهِ؛ فَسَدَتْ صَلَوةُ مَنْ خَلْفَهُ .

Muḥammad said, “We adhere to this. If a man in need of a *ghusl* because of sexual relations or without *wuḍū’* prays or if his prayer is invalid for any reason whatsoever, then the prayer of those behind him is invalid.”

١٣٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا إِبْرَاهِيمُ بْنُ يَزِيدَ الْمَكِّيُّ عَنْ عَمْرِو بْنِ دِينَارٍ أَنَّ عَلِيَّ بْنَ أَبِي
طَالِبٍ رَضِيَ اللَّهُ عَنْهُ قَالَ فِي الرَّجُلِ يُصَلِّي بِالْقَوْمِ جُنُباً قَالَ : يُعِيدُ وَيُعِيدُونَ .

134. Muḥammad said, "Ibrāhīm ibn Yazīd al-Makkī informed us from ʿAmr ibn Dīnār that ʿAlī ibn Abī Ṭālib ﵁ said concerning the man who leads people in prayer while in need of a *ghusl* because of sexual relations, 'He must repeat[432] the prayer and so must they.'"

١٣٥ – مُحَمَّدٌ عَنْ عَبْدِ اللَّهِ بْنِ الْمُبَارَكِ عَنْ يَعْقُوبَ بْنِ الْقَعْقَاعِ عَنْ عَطَاءِ بْنِ أَبِي رَبَاحٍ
فِي رُجُلٍ يُصَلِّي بِأَصْحَابِهِ عَلَى غَيْرِ وُضُوءٍ قَالَ : يُعِيدُ وَيُعِيدُونَ .

135. Muḥammad from[433] ʿAbdullāh ibn al-Mubārak from Yaʿqūb ibn al-Qaʿqāʿ that ʿAṭā' ibn Abī Rabāḥ said concerning a man who led his companions in prayer without being in *wuḍū'*, "He must repeat the prayer and so must they."[434]

١٣٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا عَبْدُ اللَّهِ بْنُ الْمُبَارَكِ عَنْ عَبْدِ اللَّهِ بْنِ عَوْنٍ عَنْ مُحَمَّدِ بْنِ
سِيرِينَ قَالَ : أَحَبُّ إِلَيَّ أَنْ يُعِيدُوا .

136. Muḥammad said, "ʿAbdullāh ibn al-Mubārak informed us from ʿAbdullāh ibn ʿAwn that Muḥammad ibn Sīrīn said, 'We prefer[435] that they repeat the prayer.'"

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

١٣٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا صَلَّتِ الْمَرْأَةُ
إِلَى جَانِبِ الرَّجُلِ وَكَانَا فِي صَلَوةٍ وَاحِدَةٍ؛ فَسَدَتْ صَلَاتُهُ .

137. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘When a woman prays beside a man[436] in the same prayer, his prayer is invalid.’”[437]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah.”

١٣٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ كَانَ يُصَلِّي ؛ وَ هِيَ نَائِمَةٌ إِلَى جَنْبِهِ ؛ عَلَيْهِ ثَوْبٌ جَانِبُهُ عَلَيْهَا .

138. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm from ʿĀ’ishah ﵂ that the Prophet ﷺ used to pray while she slept by his side[438] and he was wearing a garment[439] one side of which lay over her.”[440]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَلَا نَرَى بِذَلِكَ بَأْساً ، وَكَذَلِكَ أَيْضاً لَوْ صَلَّتْ إِلَى جَانِبِهِ فِي صَلوةٍ غَيْرِ صَلَاتِهِ ، إِنَّمَا تُفْسِدُ عَلَيْهِ إِذَا صَلَّتْ إِلَى جَانِبِهِ ؛ وَهُمَا فِي صَلوةٍ وَاحِدَةٍ ، تَأْتَمُّ بِهِ أَوْ يَأْتَمَّانِ بِغَيْرِهِمَا ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere to this, and we see no harm in that. It is similar if she prayed by his side but performing another prayer than the one he was performing. It only invalidates his prayer if she is beside him and they are performing the same prayer, with him acting as her imam[441] or both of them following another imam. That is the verdict of Abū Ḥanīfah.”

١٣٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ قَالَ : سَأَلْتُ إِبْرَاهِيمَ عَنِ الرَّجُلِ يُصَلِّي فِي جَانِبِ الْمَسْجِدِ الشَّرْقِيِّ ، وَالْمَرْأَةُ فِي الْغَرْبِيِّ ، فَكَرِهَ ذَلِكَ إِلاَّ أَنْ يَكُونَ بَيْنَهُ وَبَيْنَهَا شَيْءٌ قَدْرَ مُؤَخَّرَةِ الرَّحْلِ .

139. Muḥammad said, "Abū Ḥanīfah informed us that Ḥammād said, 'I asked Ibrāhīm about a man praying in the eastern side of the mosque and a woman praying in the western side and he disapproved of that unless between them there was[442] something that amounted to the rear part of the camel saddle.'"[443]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، إِذَا كَانَا فِي صَلَوةٍ وَاحِدَةٍ يُصَلِّيَانِ مَعَ إِمَامٍ وَاحِدٍ .

Muḥammad said, "We adhere to this, when they are in the same prayer praying with a single imam."

١٤٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنِ الأَسْوَدِ بْنِ يَزِيدَ أَنَّهُ سَأَلَ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا أُمَّ الْمُؤْمِنِينَ عَمَّا يَقْطَعُ الصَّلَوةَ ، فَقَالَتْ : أَمَا إِنَّكُمْ يَا أَهْلَ الْعِرَاقِ تَزْعُمُونَ أَنَّ الْحِمَارَ وَالْكَلْبَ وَالْمَرْأَةَ وَالسِّنَّوْرَ يَقْطَعُونَ الصَّلَوةَ ، فَقَرَنْتُمُونَا بِهِمْ ؟ فَادْرَأْ مَا اسْتَطَعْتَ ؛ فَإِنَّهُ لَا يَقْطَعُ صَلَاتَكَ شَيْءٌ .

140. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that al-Aswad ibn Yazīd asked ʿĀ'ishah ﵂ the Mother of the *Mu'minūn* about what interrupts the prayer [and invalidates it by passing in front of it], and she said, 'Do you not claim, people of Iraq,[444] that donkeys, dogs, women and cats[445] interrupt the prayer, and so you couple us [women] with them [animals]? Avert what you can, because nothing interrupts[446] the prayer.'"[447]

قَالَ مُحَمَّدٌ : وَبِقَوْلِ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, "We adhere to the verdict of ʿĀ'ishah ﵂ and it is verdict of Abū Ḥanīfah."

١٤١– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ عُمَرَ بْنِ الْخَطَّابِ
رَضِيَ اللَّهُ عَنْهُ أَنَّهُ قَالَ : أَجْدَبُ الْجَدْبِ الْحَدِيثُ بَعْدَ صَلوٰةِ الْعِشَاءِ ؛ إِلَّا فِي صَلوٰةٍ أَوْ
قِرَاءَةِ قُرْآنٍ.

141. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿUmar ibn al-Khaṭṭāb ؓ said, ‘The ugliest[448] vice is any discourse after the prayer of ʿIshā’ except for in prayer[449] or recitation of Qur’ān.’”

◆

بَابُ الرُّعَافِ فِي الصَّلوٰةِ وَالْحَدَثِ

44. NOSEBLEEDS DURING THE PRAYER AND BREAKING WIND

١٤٢– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا عَبْدُ الْمَلِكِ بْنُ عُمَيْرٍ عَنْ مَعْبَدِ
بْنِ صُبَيْحٍ أَنَّ رَجُلاً مِنْ أَصْحَابِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ صَلَّى خَلْفَ عُثْمَانَ
بْنِ عَفَّانَ رَضِيَ اللَّهُ عَنْهُ ، فَأَحْدَثَ الرَّجُلُ فَانْصَرَفَ ، وَلَمْ يَتَكَلَّمْ حَتَّى تَوَضَّأَ ، ثُمَّ أَقْبَلَ ؛
وَهُوَ يَقُولُ : ﴿ وَلَمْ يُصِرُّوا عَلَى مَا فَعَلُوا وَهُمْ يَعْلَمُونَ ﴾ ، فَاحْتَسَبَ بِمَا مَضَى ، وَصَلَّى
مَا بَقِيَ.

142. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘ʿAbd al-Malik ibn ʿUmayr narrated to us from Maʿbad ibn Ṣubayḥ[450] that a man[451] of the Companions of the Messenger of Allah ﷺ prayed behind ʿUthmān ibn ʿAffān ؓ. The man broke wind[452] and so left the prayer. He did not speak until he had done *wuḍū’* and then

returned[453] saying, "*and they do not knowingly*[454] *persist in what*[455] *they were doing*" (Sūrah Āl ʿImrān: 135). So he calculated what he had prayed and prayed what remained.'"[456]

١٤٣- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّهُ قَالَ : يُجْزِئُهُ، وَالْاِسْتِينَافُ أَحَبُّ إِلَيَّ.

143. Muḥammad said, "Abū Ḥanīfah informed us that Ibrāhīm said, 'That suffices him,[457] but I prefer him to start again from the beginning.'"

قَالَ مُحَمَّدٌ : وَبِقَوْلِ إِبْرَاهِيمَ نَأْخُذُ ، ذَلِكَ يُجْزِئُ، فَإِنْ تَكَلَّمَ وَاسْتَقْبَلَ فَهُوَ أَفْضَلُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ.

Muḥammad said, "We adhere to the verdict of Ibrāhīm. That is sufficient for him, but if he talks and begins it again that is better. That is the verdict of Abū Ḥanīfah."

١٤٤- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يَرْعَفُ فِي الصَّلَوةِ أَوْ يُحْدِثُ، قَالَ: يَخْرُجُ وَلَا يَتَكَلَّمُ إِلَّا أَنْ يَذْكُرَ اللَّهَ ثُمَّ يَتَوَضَّأُ ، ثُمَّ يَرْجِعُ إِلَى مَكَانِهِ، فَيَقْضِي مَا بَقِيَ عَلَيْهِ مِنْ صَلَاتِهِ، وَيَعْتَدُّ بِمَا صَلَّى ، فَإِنْ كَانَ تَكَلَّمَ اسْتَقْبَلَ.

144. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who has a nosebleed during the prayer or who breaks wind, 'Let him leave without speaking except for remembrance of Allah,[458] then do *wuḍū'* and return to his place and make up what remains of his prayer reckoning whatever he has already prayed. However, if he talks then let him start from the beginning.'"

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، الْكَلَامُ وَ الْاِسْتِقْبَالُ أَفْضَلُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, “We adhere to his. To speak and then start from the beginning is better, and that is the verdict of Abū Ḥanīfah.”

◆

بَابُ مَا يُعَادُ مِنَ الصَّلٰوةِ وَمَا يُكْرَهُ مِنْهَا

45. WHAT OF THE PRAYER IS REPEATED AND WHAT OF THAT IS DISAPPROVED

١٤٥– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ قَالَ : سَأَلْتُ إِبْرَاهِيمَ عَنِ الصَّلٰوةِ قَبْلَ الْمَغْرِبِ، فَنَهَانِي عَنْهَا ، وَقَالَ : إِنَّ النَّبِيَّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ وَأَبَابَكْرٍ وَّعُمَرَ رَضِيَ اللّٰهُ عَنْهُمَا لَمْ يُصَلُّوهَا .

145. Muḥammad said, “Abū Ḥanīfah informed us that Ḥammād said, ‘I asked Ibrāhīm about prayer before *Maghrib*[459] and he forbade me to do it. He said, “The Prophet ﷺ, Abū Bakr and ʿUmar ﵄ did not pray it.”’”[460]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، إِذَا غَابَتِ الشَّمْسُ ؛ فَلَا صَلٰوةَ عَلَى جَنَازَةٍ وَّلَا غَيْرَهَا قَبْلَ صَلٰوةِ الْمَغْرِبِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere to this.[461] When the sun sets there is to be no prayer over the dead nor anything else before the prayer of *Maghrib*, and that is the verdict of Abū Ḥanīfah”

١٤٦– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا كَانَ الدَّمُ قَدْرَ الدِّرْهَمِ وَالْبَوْلُ وَغَيْرُهُ ؛ فَأَعِدْ صَلَاتَكَ ، وَإِنْ كَانَ أَقَلَّ من قَدْرِ الدِّرْهَمِ فَامْضِ عَلَى صَلَاتِكَ .

146. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If the blood and the urine and other things are

the size of a dirham then repeat your prayer. If it is less than the size of a dirham[462] then conclude your prayer.'"[463]

قَالَ مُحَمَّدٌ : تُجْزِئُهُ صَلَاتُهُ حَتَّى يَكُونَ ذَلِكَ أَكْثَرَ من قَدْرِ الدِّرْهَمِ الْكَبِيرِ الْمِثْقَالِ ، فَإِذَا
كَانَ كَذَلِكَ لَمْ تُجْزِئْهُ صَلَاتُهُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ .

And Muḥammad said, "The prayer is valid until the point when that is larger than the size of a big *mithqāl*[464] dirham at which point one's prayer is not valid, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

١٤٧- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا عَلِيُّ بْنُ الأَقْمَرِ أَنَّ النَّبِيَّ صَلَّى
اللَّهُ عَلَيْهِ وَسَلَّمَ مَرَّ بِرَجُلٍ سَادِلٍ ثَوْبَهُ فِي الصَّلوةِ ، فَعَطَفَهُ عَلَيْهِ .

147. Muḥammad said, "Abū Ḥanīfah informed us saying, ''Alī ibn al-Aqmar narrated to us that the Prophet ﷺ passed by a man who had draped his garment over his head and shoulders allowing the rest of it to trail down over his body during the prayer and so he folded it up for him.'"[465]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، يُكْرَهُ السَّدْلُ فِي الصَّلوةِ عَلَى الْقَمِيصِ وَعَلَى غَيْرِهِ ، لِأَنَّهُ يُشْبِهُ
فِعْلَ أَهْلِ الْكِتَابِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, "We adhere to this. Draping one's garment loosely over the head and shoulders and over the shirt or anything else is disapproved because it resembles the actions of the People of the Book, and that is the verdict of Abū Ḥanīfah."

١٤٨- مُحَمَّدٌ قَالَ : حَدَّثَنَا عَبْدُ الْمَلِكِ بْنُ عُمَيْرٍ عَنْ قَزَعَةَ عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ رَضِيَ اللَّهُ عَنْهُ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنَّهُ قَالَ : لَا صَلَوةَ بَعْدَ صَلَوةِ الْغَدَاةِ حَتَّى تَطْلُعَ الشَّمْسُ ، وَلَا صَلَوةَ بَعْدَ صَلَوةِ الْعَصْرِ حَتَّى تَغْرُبَ الشَّمْسُ ، وَلَا يُصَامُ هَذَانِ الْيَوْمَانِ: الْفِطْرُ وَالْأَضْحَى، وَلَا تُشَدَّ الرِّحَالُ إِلَّا إِلَى ثَلَاثَةِ مَسَاجِدَ: الْمَسْجِدِ الْحَرَامِ، وَمَسْجِدِي ، وَ الْمَسْجِدِ الْأَقْصَى، وَلَا تُسَافِرُ الْمَرْأَةُ إِلَّا مَعَ ذِي مَحْرَمٍ مِنْهَا .

148. Muḥammad said, "ʿAbd al-Malik[466] ibn ʿUmayr narrated to us from Qazaʿah from Abū Saʿīd al-Khudrī ؓ that the Prophet ﷺ said, 'There is to be no prayer[467] after the morning prayer[468] until the sun has risen,[469] nor is there to be any prayer after the ʿ*Aṣr* prayer until the sun has set. Nor are these two days to be fasted: *al-Fiṭr*[470] and *al-Aḍḥā*[471]. Nor should one make journeys[472] except to three mosques: the sacred mosque [in Makkah], my mosque and the al-Aqṣā mosque. A woman must not travel[473] except in the company of a *maḥram* [male relative whom she is unable to marry in any circumstances].'"[474] [475]

قَالَ مُحَمَّدٌ : وَبِهَذَا كُلِّهِ نَأْخُذُ ، وَلَا يَنْبَغِي لِلْمَرْأَةِ أَنْ تُسَافِرَ إِلَّا مَعَ زَوْجِهَا ، أَوْ مَعَ ذِي مَحْرَمٍ مِنْهَا ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, "We adhere to all of this, and a woman ought not[476] to travel except in the company of her husband or with a male relative [whom she is unable to marry in any circumstances], and that is the verdict of Abū Ḥanīfah."

١٤٩- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّهُ كَرِهَ أَنْ يُفَرْقِعَ أَصَابِعَهُ فِي الصَّلَوةِ أَوْ يُلْقِيَ رِدَاءَهُ عَنْ مَنْكِبَيْهِ ، أَوْ يَضَعَ يَدَهُ عَلَى خَاصِرَتِهِ، أَوْ يَدْفِنَ كِبَارَ الْحَصَى أَوْ يُقْعِيَ عَلَى عَقِبَيْهِ أَوْ يَعْبَثَ بِلِحْيَتِهِ .

149. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm disapproved of cracking the joints of the fingers in the prayer or of casting[477] the large outer garment over the shoulders, or placing the hands on the flanks,[478] or burying[479] the larger pebbles, or sitting back with the buttocks on the ground and setting the thighs erect while laying one’s arms along the ground (*iqʿā’*),[480] or fiddling with one’s beard.”[481]

قَالَ مُحَمَّدٌ : وَبِهَذَا نَأْخُذُ لِأَنَّهُ عَبَثٌ فِي الصَّلَوةِ يَشْغُلُ عَنْهَا ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this because it is trifling with the prayer which distracts one from it, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

١٥٠– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ يُكْرَهُ السَّدْلُ فِي الصَّلَوةِ، لَا تَشَبَّهُوا بِالْيَهُودِ .

150. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm, “*Sadl* [draping the garment over head and shoulders allowing the rest of it to trail down over the body] is disapproved in the prayer; do not emulate the Jews.”[482]

١٥١– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّ عُمَرَ بْنَ الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ صَلَّى بِأَصْحَابِهِ الْمَغْرِبَ ، فَلَمْ يَقْرَأْ فِي شَيْءٍ مِنْهَا حَتَّى انْصَرَفَ ، فَقَالَ لَهُ أَصْحَابُهُ : مَا مَنَعَكَ أَنْ تَقْرَأَ يَا أَمِيرَ الْمُؤْمِنِيْنَ؟ قَالَ : أَوَ مَا فَعَلْتُ ؟ إِنِّي جَهَّزْتُ عِيراً الْعَشِيَّةَ إِلَى الشَّامِ، فَلَمْ أَزَلْ أُرَحِّلُهَا مَنْقَلَةً مَنْقَلَةً، حَتَّى وَرَدَتِ الشَّامَ ، فَأَعَادَ وَأَعَادَ أَصْحَابُهُ .

151. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿUmar ibn al-Khaṭṭāb رضي الله عنه led his companions[483] in *Maghrib* without reciting[484] any of the Qur’ān in it the whole time

until he finished. His companions said to him, ‘What prevented you from reciting, Amīr al-Mu’minin?’ He said, ‘Did I not do that? I was equipping an army[485] to go from Madīnah to Shām and I continued to ride with it stage by stage until it reached Shām,’ and so he and his companions repeated the prayer.”[486]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah.”

١٥٢– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا عَبْدُ الْمَلِكِ بْنُ عُمَيْرٍ عَنْ أَبِي غَادِيَةَ أَنَّ عُمَرَ بْنَ الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ كَانَ يَضْرِبُ النَّاسَ عَلَى الصَّلَوةِ بَعْدَ الْعَصْرِ .

152. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘ʿAbd al-Malik ibn ʿUmayr narrated to us from Abū Ghādiyah[487] that ʿUmar ibn al-Khaṭṭāb ﵁ used to beat people[488] for praying after *ʿAṣr*.’”[489]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، لَا نَرَى أَنْ يُصَلِّيَ بَعْدَ الْعَصْرِ تَطَوُّعاً عَلَى حَالٍ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere to this. We do not think that anyone should pray supererogatory prayers[490] after *ʿAṣr* under any circumstances. That is the verdict of Abū Ḥanīfah.”

١٥٣– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا دَخَلْتَ فِي صَلوةِ الْقَوْمِ ؛ وَأَنْتَ لَا تَنْوِي صَلَاتَهُمْ ؛ لَا تُجْزِئُكَ ، وَإِنْ نَوَى الْإِمَامُ صَلوةً ، وَنَوَى الَّذِينَ خَلْفَهُ غَيْرَهَا أَجْزَأَتْ لِلْإِمَامِ وَلَمْ تُجْزِئْهُمْ .

153. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If you join people in prayer without intending[491] the same prayer as they are doing then it is not valid for you. If the

imam intends one prayer and those behind him intend another it is valid for him but not for them.'"[492]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah."

١٥٤- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : مَا يَسُرُّنِي صَلَوٰةُ الرَّجُلِ حِينَ تَحْمَرُّ الشَّمْسُ بِفَلْسَيْنِ .

154. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, 'I would not be pleased[493] with the prayer of a man when the sun reddens [even if he were to give me] two copper[494] coins.'"[495]

قَالَ مُحَمَّدٌ : تُكْرَهُ الصَّلَوٰةُ تِلْكَ السَّاعَةَ ، (إِلاَّ أَنْ تَفُوتَهُ الْعَصْرُ من يَوْمِهِ ذَلِك ، فَيُصَلِّيهَا تِلْكَ السَّاعَةَ) فَأَمَّا غَيْرُهَا مِنَ الصَّلَوَاتِ الْمَكْتُوبَاتِ وَالتَّطَوُّعِ فَلا يَنْبَغِي لَهُ أَنْ يَفْعَلَ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, "Prayer is disliked (*makrūh*)[496] at that time (unless one has missed the *ʿAṣr* prayer of that day, so that one should then pray it at that time). But as for other obligatory and supererogatory prayers one ought not to do them. That is the verdict of Abū Ḥanīfah."

١٥٥- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا كَانَ الدَّمُ فِي جَسَدِكَ أَوْ فِي ثَوْبِكَ قَدْرَ الدِّرْهَمِ ، فَأَعِدْ صَلاَتَكَ ، وَإِنْ كَانَ أَقَلَّ من ذَلِكَ فَامْضِ عَلَى صَلاَتِكَ .

155. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, 'When the blood on your body or on your garment is of the size of a dirham then you must repeat your prayer

[after washing off the blood and repeating *wuḍū'*], but if it is less than that then you may carry on with your prayer.'"

قَالَ مُحَمَّدٌ : الدَّمُ فِي الثَّوْبِ وَالْجَسَدِ سَوَاءٌ إِذَا كَانَ أَكْثَرَ من قَدْرِ الدِّرْهَمِ الْكَبِيرِ الْمِثْقَالِ ، فَأَعِدِ الصَّلٰوةَ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, "It is the same whether it is blood on one's garment or body. If it is more than the size of a large *mithqāl* dirham[497] then repeat the prayer. That is the verdict of Abū Ḥanīfah."

١٥٦- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا عَاصِمُ بْنُ أَبِي النَّجُودِ عَنْ أَبِي رَزِينٍ عَنْ عَبْدِ اللّٰهِ بْنِ مَسْعُودٍ رَضِيَ اللّٰهُ عَنْهُ أَنَّهُ أَخَذَ قَمْلَةً فِي الصَّلٰوةِ فَدَفَنَهَا ، ثُمَّ قَالَ : ﴿ أَلَمْ نَجْعَلِ الْأَرْضَ كِفَاتًا أَحْيَاءً وَأَمْوَاتًا ﴾ ،

156. Muḥammad said, "Abū Ḥanīfah informed us saying, "ʿĀṣim ibn Abī'n-Najūd narrated to us from Abū Razīn that ʿAbdullāh ibn Masʿūd ﵁ took a louse during the prayer and buried it. Then later he said, '*Did We not make the earth a receptacle*[498] *for the living and the dead?*' (Sūrat al-Mursalāt: 25-26)"[499]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، لَا نَرَى بِقَتْلِ الْقَمْلَةِ وَدَفْنِهَا فِي الصَّلٰوةِ بَأْساً ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, "We adhere to this. We see no harm[500] in killing a louse and burying it during the prayer. That is the verdict of Abū Ḥanīfah."

١٥٧- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ قَالَ :سَأَلْتُ إِبْرَاهِيمَ عَنِ الرَّجُلِ يَذْبَحُ الشَّاةَ ، وَهُوَ عَلَى وُضُوءٍ ، فَيُصِيبُ يَدَهُ الدَّمُ ، قَالَ : يَغْسِلُ مَا أَصَابَهُ وَلَا يُعِيدُ الْوُضُوءَ .

157.[501] Muḥammad said, “Abū Ḥanīfah informed us that Ḥammād said, ‘I asked Ibrāhīm about a man who slaughters a sheep while in *wuḍū’* and some blood gets on his hand. He said, “He should wash off what has got on to him but he does not need to repeat *wuḍū’*.”’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah.”

بَابُ الرَّجُلِ يَجِدُ الْبَلَلَ فِي الصَّلوٰةِ

46. A MAN EXPERIENCING MOISTURE DURING THE PRAYER

١٥٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ عَنْ أَبِي زُرْعَةَ عَنْ عَمْرِو بْنِ جَرِيرِ بْنِ عَبْدِ اللهِ عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللهُ عَنْهُ فِي الرَّجُلِ يَجِدُ الْبَلَلَ فِي طَرَفِ ذَكَرِهِ وَهُوَ فِي الصَّلوٰةِ ، قَالَ : يَضَعُ كَفَّيْهِ عَلَى الْأَرْضِ وَالْحَصَى ، فَيَمْسَحُ وَجْهَهُ وَ يَدَيْهِ ، ثُمَّ يُصَلِّي . قَالَ حَمَّادٌ : فَقُلْتُ لِإِبْرَاهِيمَ : فَكَيْفَ تَفْعَلُ أَنْتَ ؟ قَالَ : إِذَا وَجَدْتُ ذٰلِكَ فَإِنِّي أُعِيدُ الصَّلوٰةَ وَهُوَ أَوْثَقُ فِي نَفْسِي .

158. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm from Abū Zurʿah ibn ʿAmr ibn Jarīr ibn ʿAbdullāh that Abū Hurayrah ؓ said concerning the man who experiences moisture[502] at the end of his penis[503] while he is in prayer, “He should place his palms on the ground[504] and on the pebbles and then wipe his face and hands [i.e., do *tayammum*] and

then he should pray."' Ḥammād said, 'So I asked Ibrāhīm, "So how do you yourself act?" He said, "When I experience that, I repeat the prayer,[505] which is safer and surer for my self."""

قَالَ مُحَمَّدٌ : وَأَمَّا نَحْنُ ؛ فَنَرَى أَنْ يَمْضِيَ عَلَى صَلَاتِهِ ، وَلَا يُعِيدُ ، وَلَا يَضْرِبُ بِيَدَيْهِ عَلَى الْأَرْضِ ، وَلَا يَمْسَحُ بِوَجْهِهِ وَلَا يَدَيْهِ ، حَتَّي يَسْتَيْقِنَ أَنَّ ذَلِكَ خَرَجَ مِنْهُ بَعْدَ الْوُضُوءِ ، فَإِذَا اسْتَيْقَنَ ذَلِكَ أَعَادَ الْوُضُوءَ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, "As for us, we think he should continue in his prayer and not repeat it, nor should he strike his hands on the ground nor wipe his face and hands [in *tayammum*] unless he is certain[506] that it came out of him after he had done *wuḍū'*. If he is certain that it has, then let him repeat his *wuḍū'*. That is the verdict of Abū Ḥanīfah."

١٥٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ سَعِيدِ بْنِ جُبَيْرٍ عَنِ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا قَالَ : إِذَا وَجَدْتَ شَيْئًا مِنَ الْبَلَّةِ فَانْضَحْهُ وَمَا يَلِيهِ مِن ثَوْبِكَ بِالْمَاءِ ، ثُمَّ قُلْ : هُوَ مِنَ الْمَاءِ . قَالَ حَمَّادٌ : قَالَ لِي سَعِيدُ بْنُ جُبَيْرٍ : إِنْضَحْهُ بِالْمَاءِ ثُمَّ إِذَا وَجَدْتَهُ فَقُلْ : هُوَ مِنَ الْمَاءِ .

159. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Saʿīd ibn Jubayr that Ibn ʿAbbās ﵄ said, 'If you experience anything of moisture then sprinkle it[507] with water. Then later if you experience[508] it, say, "It is from the water."'"[509]

قَالَ مُحَمَّدٌ : وَبِهَذَا نَأْخُذُ إِذَا كَانَ كَثُرَ ذَلِكَ مِنَ الْإِنْسَانِ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, "We adhere to this if it happens a great deal[510] to a person, and that is the verdict of Abū Ḥanīfah."

◆

بَابُ الْقَهْقَهَةِ فِي الصَّلٰوةِ ، وَمَا يُكْرَهُ فِيهَا

47. PROLONGED INTENSE LAUGHTER IN THE PRAYER, AND WHAT IS DISLIKED IN PRAYER

١٦٠- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : لَا بَأْسَ بِأَنْ يُغَطِّيَ الرَّجُلُ رَأْسَهُ فِي الصَّلٰوةِ مَا لَمْ يُغَطِّ فَاهُ وَيُكْرَهُ أَنْ يُغَطِّيَ فَاهُ .

160. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, 'There is no harm[511] in a man covering his head during prayer as long as he does not cover his mouth, and it is disapproved for him to cover his mouth.'"[512] [513]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَنَكْرَهُ أَيْضًا أَنْ يُغَطِّيَ أَنْفَهُ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, "We adhere to this, and we also disapprove of him covering his nose, and that is the verdict of Abū Ḥanīfah."

١٦١- مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يُصَلِّي الْعَصْرَ فَيَذْكُرُ وَهُوَ يُصَلِّي أَنَّهُ لَمْ يُصَلِّ الظُّهْرَ، قَالَ : صَلَاتُهُ هَذِهِ فَاسِدَةٌ ، يَبْدَأُ بِالظُّهْرِ ثُمَّ يُصَلِّي الْعَصْرَ .

161. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who, while praying *ʿAṣr*, remembers during the prayer that he hadn't prayed *Ẓuhr*, 'This prayer of his is invalid and he must begin with *Ẓuhr* then pray *ʿAṣr*.'"[514]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ إِلَّا فِي خَصْلَةٍ وَاحِدَةٍ: إِنْ خَافَ فَوْتَ صَلٰوةِ الْعَصْرِ إِنْ بَدَأَ بِالظُّهْرِ مَضَى عَلَى الْعَصْرِ، ثُمَّ صَلَّى الظُّهْرَ إِذَا غَابَتِ الشَّمْسُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere to this[515] except in one respect:[516] if he fears that he will miss ʿ*Aṣr* entirely if he begins again with *Ẓuhr*, he must continue with ʿ*Aṣr* and then pray *Ẓuhr* when the sun has set. That is the verdict of Abū Ḥanīfah.”

١٦٢– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يُصَلِّي فِي يَوْمِ غَيْمٍ ثُمَّ تَطْلُعُ الشَّمْسُ ؛ وَ قَدْ بَقِيَ عَلَيْهِ بَعْضُ صَلَاتِهِ ، فَإِذَا هُوَ قَدْ كَانَ يُصَلِّي إِلَى غَيْرِ الْقِبْلَةِ ، قَالَ : يَتَحَوَّلُ إِلَى الْقِبْلَةِ ، وَيَحْتَسِبُ بِمَا صَلَّى . وَيُصَلِّي مَا بَقِيَ .

162. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said of a man praying on a cloudy day and then the sun appeared while some of his prayer remained unfinished and he [found that he] had not been praying towards the *qiblah*, ‘He should turn towards the *qiblah*, calculate what he has done already and pray what remains of his prayer.’”[517]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah.”

١٦٣– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا منصُورُ بْنُ زَاذَانَ عَنِ الْحَسَنِ الْبَصْرِيِّ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنَّهُ قَالَ : بَيْنَمَا هُوَ فِي الصَّلوةِ إِذْ أَقْبَلَ رَجُلٌ أَعْمَى من قِبَلِ الْقِبْلَةِ يُرِيدُ الصَّلوةَ ، وَالْقَوْمُ فِي صَلَوةِ الْفَجْرِ ، فَوَقَعَ فِي زُبْيَةٍ ، فَاسْتَضْحَكَ بَعْضُ الْقَوْمِ حَتَّى قَهْقَهَ ، فَلَمَّا فَرَغَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ : مَنْ كَانَ قَهْقَهَ منكُمْ فَلْيُعِدِ الْوُضُوءَ وَالصَّلَوةَ .

163. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Manṣūr ibn Zādhān narrated to us from al-Ḥasan al-Baṣrī[518] that when the Prophet ﷺ was in prayer, a blind man came from the direction of the *qiblah* intending to join the prayer while the people were praying *Fajr*, and the man fell into a pitfall.[519] Some of the people

laughed so much that it became intense and prolonged. When the Messenger of Allah ﷺ finished he said, “Whoever of you laughed intensely and prolongedly should repeat *wuḍū’* and the prayer.”””[520] [521]

١٦٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يُقَهْقِهُ فِي الصَّلوةِ قَالَ : يُعِيدُ الْوُضُوءَ وَالصَّلوةَ، وَيَسْتَغْفِرُ رَبَّه؛ فَإِنَّه أَشَدُّ الْحَدَث.

164. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who laughs intensely and prolongedly[522] in prayer, ‘He should repeat *wuḍū’* and the prayer and seek forgiveness of his Lord, because it is the most extreme type of factor that nullifies *wuḍū’*.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◈

بَابُ النَّوْمِ قَبْلَ الصَّلوةِ وَانْتِقَاضِ الْوُضُوءِ مِنْهُ

48. SLEEPING BEFORE PRAYER AND BREAKING ONE’S *WUḌŪ’* BY DOING SO

١٦٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : تَوَضَّأَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، فَخَرَجَ إِلَى الْمَسْجِدِ، فَوَجَدَ الْمُؤَذِّنَ قَدْ أَذَّنَ، فَوَضَعَ جَنْبَهُ، فَنَامَ حَتَّى عُرِفَ مِنْهُ النَّوْمُ – وَكَانَتْ لَهُ نَوْمَةٌ تُعْرَفُ، كَانَ يَنْفُخُ إِذَا نَامَ – ثُمَّ قَامَ فَصَلَّى بِغَيْرِ وُضُوءٍ. قَالَ إِبْرَاهِيمُ : إِنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَيْسَ كَغَيْرِهِ.

165. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘The Messenger of Allah ﷺ performed *wuḍū’* and went out to the mosque. He found that the *mu’adhdhin* had already called the *adhān*.[523] He laid himself down[524] and slept so deeply that it could be recognised that he was asleep – and his sleeping could [ordinarily] be recognised [because] he would breath through his mouth[525] when he slept. Then he stood and prayed without [repeating] *wuḍū’*.’[526] Ibrāhīm said, ‘The Prophet ﷺ was not like others.’”[527]

قَالَ مُحَمَّدٌ : وَبِقَوْلِ إِبْرَاهِيمَ نَأْخُذُ ، بَلَغَنَا أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ : إِنَّ عَيْنَيَّ تَنَامَانِ ، وَلَا يَنَامُ قَلْبِي ، فَالنَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فِي هَذَا لَيْسَ كَغَيْرِهِ ، فَأَمَّا مَنْ سِوَاهُ فَمَنْ وَضَعَ جَنْبَهُ ، فَنَامَ فَقَدْ وَجَبَ عَلَيْهِ الْوُضُوءُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere to Ibrāhīm’s verdict. It has reached us that the Prophet ﷺ said, ‘My eyes sleep, but my heart does not sleep.’[528] So the Prophet ﷺ in this is not like others. As for anyone other than him,[529] if he lays himself down and sleeps, then he has to do *wuḍū’*, and that is the verdict of Abū Ḥanīfah.”

١٦٦ - مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا نُمْتَ قَاعِدًا ، أَوْ قَائِمًا ، أَوْ رَاكِعًا ، أَوْ سَاجِدًا ، أَوْ رَاكِبًا ؛ فَلَيْسَ عَلَيْكَ وُضُوءٌ .

166. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If you fall asleep while seated, standing, bowing or in prostration you do not have to do *wuḍū’*.’”[530]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، فَإِذَا وَضَعَ جَنْبَهُ ، فَنَامَ وَجَبَ عَلَيْهِ الْوُضُوءُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere to this, but when someone lays himself down and sleeps, he has to do *wuḍū’*, and that is the verdict of Abū Ḥanīfah.”

١٦٧- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ: حَدَّثَنَا إِسْمَاعِيلُ بْنُ عَبْدِ الْمَلِكِ عَنْ مُجَاهِدٍ قَالَ : سَأَلْتُهُ عَنِ النَّوْمِ قَبْلَ الْعِشَاءِ الْآخِرَةِ ، فَقَالَ : لَأَنْ أُصَلِّيَهَا وَحْدِي أَحَبُّ إِلَيَّ من أَنْ أَنَامَ قَبْلَهَا ثُمَّ أُصَلِّيَهَا فِي جَمَاعَةٍ .

167. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ismāʿīl ibn ʿAbd al-Malik narrated to us from Mujāhid. He [Ismāʿīl] said, “I asked him about sleep before *ʿIshā’*, and he said, ‘I would prefer to pray it by myself[531] than to sleep before it and then pray it in the group (*jamāʿah*).’”’”[532]

قَالَ مُحَمَّدٌ : وَنَحْنُ نَكْرَهُ النَّوْمَ قَبْلَ صَلَوةِ الْعِشَاءِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “And we[533] disapprove of sleep before the prayer of *ʿIshā’*, and that is the verdict of Abū Ḥanīfah.”

١٦٨- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : عَرَّسَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَيْلَةً ، فَقَالَ : مَنْ يَحْرُسُنَا اللَّيْلَةَ ؟ فَقَالَ رَجُلٌ من الْأَنْصَارِ شَابٌّ : أَنَا يَا رَسُولَ اللَّهِ ! أَحْرُسُكُمْ ، فَحَرَسَهُمْ حَتَّى إِذَا كَانَ مَعَ الصُّبْحِ ؛ غَلَبَتْهُ عَيْنُهُ ، فَمَا اسْتَيْقَظُوا إِلَّا بِحَرِّ الشَّمْسِ ، فَقَامَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ، فَتَوَضَّأَ ، وَتَوَضَّأَ أَصْحَابُهُ ، وَ أَمَرَ الْمُؤَذِّنَ فَأَذَّنَ ، فَصَلَّى رَكْعَتَيْنِ ، ثُمَّ أُقِيمَتِ الصَّلَوةُ ، فَصَلَّى الْفَجْرَ بِأَصْحَابِهِ ، وَجَهَرَ فِيهَا بِالْقِرَاءَةِ كَمَا كَانَ يُصَلِّي بِهَا فِي وَقْتِهَا .

168. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘[While on a journey] The Messenger of Allah ﷺ alighted[534] one night to sleep and said, “Who will guard[535] us tonight?” A young man of the Anṣār said, “I will, Messenger of Allah, I will guard you.” So he stood guard over them until it was the morning when his eye overcame him and they only woke up because of the heat of the sun. The Messenger of Allah ﷺ rose and did *wuḍū’* and his companions did *wuḍū’*. He told the *mu’adhdhin*[536]

to call the *adhān*, and then he prayed two *rakʿahs*. Then the *iqāmah* for the prayer was called and he led his Companions in prayer reciting aloud[537] in it as he would ordinarily do when praying at the right time.'"[538]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

◆

بَابُ صَلوةِ الْمُغْمَى عَلَيْهِ

49. THE PRAYER OF SOMEONE WHO FAINTS

١٦٩- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّهُ سَأَلَهُ عَنِ الرَّجُلِ الْمَرِيضِ يُغْمَى عَلَيْهِ فَيَدَعُ الصَّلوةَ، فَقَالَ : إِذَا كَانَ الْيَوْمُ الْوَاحِدُ فَإِنِّي أُحِبُّ أَنْ يَقْضِيَهُ ، وَإِنْ كَانَ أَكْثَرَ من ذَلِكَ فَإِنَّهُ فِي عُذْرٍ إِنْ شَاءَ اللَّهُ تَعَالَى.

169. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that he asked Ibrāhīm about a sick man who fainted and thus missed the prayer, and he said, 'If it is only for a single day, I prefer[539] that he make up the prayers, but if it is more than that, he is excused[540] inshā'Allāh, exalted is He.'"

قَالَ مُحَمَّدٌ : إِذَا أُغْمِيَ عَلَيْهِ يَوْماً وَلَيْلَةً قَضَى، وَإِنْ كَانَ أَكْثَرَ من ذَلِكَ فَلَا قَضَاءَ عَلَيْهِ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ.

Muḥammad said, "If he faints for a day and a night, he makes up the prayers,[541] but if it is for more than that he does not have to make them up, and that is the verdict of Abū Ḥanīfah."[542]

١٧٠- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنِ ابْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا فِي الْمُغْمَى عَلَيْهِ يَوْمًا وَلَيْلَةً ، قَالَ : يَقْضِي .

170. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that Ibn ʿUmar ؓ said about someone who is in a faint for a day and a night, 'He should make up his prayers.'"

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ حَتَّى يُغْمَى عَلَيْهِ أَكْثَرَ من ذَلِكَ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, "We adhere to this, until he is unconscious for more than that, and that is the verdict of Abū Ḥanīfah."

◆

بَابُ السَّهْوِ فِي الصَّلٰوةِ

50. FORGETFULNESS IN THE PRAYER

١٧١- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يَشُكُّ فِي السَّجْدَةِ الْأُولَى أَوِ التَّشَهُّدِ أَوْ نَحْوَ ذَلِكَ من صَلَاتِهِ مَا لَمْ تَكُنْ رَكْعَةً ، فَإِنَّهُ يَقْضِي مَا شَكَّ فِيهِ من ذَلِكَ ، وَيَسْجُدُ لِذَلِكَ أَيْضاً سَجْدَتَيِ السَّهْوِ ، فَإِنَّهُمَا يُصْلِحَانِ بِإِذْنِ اللَّهِ مَا كَانَ قَبْلَهُمَا مِنْ نِسْيَانٍ ، وَكَانَ يُقَالُ : إِنَّهُمَا الْمُرَغِّمَتَانِ لِلشَّيْطَانِ ، وَإِنَّهُ قَالَ : لَأَنْ أَسْجُدَ لِذَلِكَ سَجْدَتَيِ السَّهْوِ فِيمَا لَمْ يَحِقَّ عَلَيَّ أَحَبُّ إِلَيَّ من أَنْ أَدَعَهُمَا .

171. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm concerning a man who is in some doubt about the first

prostration[543] or the *tashahhud* or something like that of his prayer, as long as it is not a complete *rakʿah*,[544] ‘He must make up what of that he has doubt about and also prostrate two prostrations for his forgetfulness, because they[545] put right[546] what forgetfulness there was before them,[547] by the permission of Allah, and it used to be said, “They abase[548] *shayṭān*.”’ He[549] also said, ‘That I should prostrate two prostrations for forgetfulness, for that reason,[550] for something[551] I didn’t have to prostrate for, is preferable to me than leaving them out.’”[552] [553]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، فَإِنْ كَانَ يُبْتَلَى بِذَلِكَ كَثِيرًا ؛ مَضَى عَلَى أَكْبَرِ رَأْيِهِ ، وَيَسْجُدُ
سَجْدَتَيِ السَّهْوِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere to this, but if someone is bothered with that a great deal, then he should act according to what he thinks most probable and then prostrate the two prostrations of forgetfulness, and that is the verdict of Abū Ḥanīfah.”

١٧٢– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِيمَنْ نَسِيَ الْفَرِيضَةَ ،
فَلَا يَدْرِي أَرْبَعًا صَلَّى أَمْ ثَلَاثًا ؟ قَالَ : إِنْ كَانَ أَوَّلَ نِسْيَانِهِ أَعَادَ الصَّلَوةَ ، وَإِنْ كَانَ يُكْثِرُ
النِّسْيَانَ يَتَحَرَّى الصَّوَابَ ، وَإِنْ كَانَ أَكْبَرَ رَأْيِهِ أَنَّهُ أَتَمَّ الصَّلَوةَ ؛ سَجَدَ سَجْدَتَيِ السَّهْوِ ،
وَإِنْ كَانَ أَكْبَرَ رَأْيِهِ أَنَّهُ صَلَّى ثَلَاثًا ؛ أَضَافَ إِلَيْهَا وَاحِدَةً ، ثُمَّ سَجَدَ سَجْدَتَيِ السَّهْوِ .

172. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning someone who forgets an obligatory [part of the prayer] so that he does not know [for example] whether he has prayed four or three *rakʿahs*, ‘If this is the first of his forgetfulness then he should repeat the prayer,[554] but if he forgets a great deal he should endeavour to find out what is correct.[555] If he thinks it most probable that he had completed the prayer, then he should do two prostrations of forgetfulness. But if he thinks it most

probable that he had prayed three *rakʿahs*, he should add a fourth to them and then do the two prostrations of forgetfulness.'"[556]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah."

١٧٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ إِنَّ عُمَرَ بْنَ الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ كَانَ يَضْرِبُ الرَّجُلَ إِذَا رَآهُ يُتَابِعُ بَيْنَ السُّجُودِ فِي غَيْرِ سَهْوٍ .

173. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿUmar ibn al-Khaṭṭāb ؓ used to beat men[557] if he saw them doing repeated prostrations[558] for some other reason than forgetfulness."

قَالَ مُحَمَّدٌ : لَا يَنْبَغِي أَنْ يَسْجُدَ الرَّجُلُ لِرَكْعَةٍ أَكْثَرَ مِنْ سَجْدَتَيْنِ ، إِلَّا أَنْ يَسْهُوَ فَلَا يَدْرِي أَ سَجَدَ سَجْدَةً وَاحِدَةً أَمِ اثْنَتَيْنِ ، فَيَمْضِي عَلَى أَكْبَرِ رَأْيِهِ ، وَهَذَا كُلُّهُ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, "A man ought not to prostrate in any one *rakʿah* more than twice unless it be out of forgetfulness such that he does not know if he has prostrated one or two prostrations, in which case he should proceed on the basis of what he thinks most probable. All of this is the verdict of Abū Ḥanīfah."

١٧٤– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ شَقِيقِ بْنِ سَلَمَةَ عَنْ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ قَالَ : إِذَا شَكَّ أَحَدُكُمْ فِي صَلَاتِه ، فَلَا يَدْرِي ثَلَاثًا صَلَّى أَمْ أَرْبَعًا فَلْيَتَحَرَّ ، فَلْيَنْظُرْ أَفْضَلَ ظَنِّهِ ، فَإِنْ كَانَ أَكْبَرُ ظَنِّهِ أَنَّهَا ثَلَاثٌ ؛ قَامَ فَأَضَافَ إِلَيْهَا الرَّابِعَةَ ، ثُمَّ تَشَهَّدَ فَسَلَّمَ وَسَجَدَ سَجْدَتَي السَّهْوِ . وَإِنْ كَانَ أَفْضَلَ ظَنِّهِ أَنَّهُ صَلَّى أَرْبَعاً ؛ تَشَهَّدَ ثُمَّ سَلَّمَ ، ثُمَّ سَجَدَ سَجْدَتَي السَّهْوِ .

174. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Shaqīq ibn Salamah that ʿAbdullāh ibn Masʿūd ؓ said, ‘If any of you are in doubt in the prayer as to whether he has prayed three or four *rakʿahs*, then let him try to find out what is correct, and let him take into consideration what he considers most probable. If he thinks it most probable that it was three, let him stand and add a fourth to them, then say the *tashahhud* and the *salām*[559] and prostrate two prostrations of forgetfulness. If he thinks it most probable that he had prayed four, he should say the *tashahhud* and the *salām* and then prostrate two prostrations of forgetfulness.’”[560]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، إِلَّا أَنَّا نَسْتَحِبُّ لَهُ إِذَا كَانَ ذَلِكَ أَوَّلَ مَا أَصَابَهُ أَنْ يُعِيدَ الصَّلٰوةَ .

Muḥammad said, “We adhere to this, except that we prefer that he repeat the prayer if this is the first of what occurs to him.”

١٧٥– مُحَمَّدٌ قَالَ : أَخْبَرَنَا مَالِكُ بْنُ مِغْوَلٍ عَنْ عَطَاءِ بْنِ أَبِي رَبَاحٍ أَنَّهُ قَالَ : يُعِيدُ مَرَّةً .

175. Muḥammad said, “Mālik ibn Mighwal [ibn ʿĀṣim] informed us that ʿAṭā’ ibn Abī Rabāḥ said, ‘He should repeat it once.’”[561]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah.”

١٧٦- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا تَخَالَجَكَ أَمْرَانِ؛ فَظُنَّ أَنْ أَقْرَبَهُمَا إِلَى الْحَقِّ أَوْسَعُهُمَا .

176. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If two matters contend with you, then think[562] that the closest of them to the truth is the more expansive of them.’”

١٧٧- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا سَهَا الْإِمَامُ فَسَجَدَ سَجْدَتَيِ السَّهْوِ فَاسْجُدْ مَعَهُ ، وَإِنْ لَمْ يَسْجُدْهُمَا فَلَيْسَ عَلَيْكَ أَنْ تَسْجُدَ .

177. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If the imam is forgetful and so prostrates the two prostrations of forgetfulness, then prostrate with him, but if he does not prostrate them you do not have to do them.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ.

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah.”

١٧٨- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي رَجُلٍ سَجَدَ ثَلَاثَ سَجَدَاتٍ نَاسِيًا ، قَالَ : عَلَيْهِ سَجْدَتَا السَّهْوِ .

178. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning the man who absentmindedly prostrates three times, ‘He must do the two prostrations for forgetfulness.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ.

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah.”

١٧٩ - مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا انْصَرَفْتَ مِنْ صَلَاتِكَ فَعَرَضَ لَكَ شَكٌّ فِي وُضُوءٍ ، أَوْ صَلَوةٍ ، أَوْ قِرَاءَةٍ ؛ فَلَا تَلْتَفِتْ .

179. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘When you leave the prayer and some doubt occurs to you about the *wuḍū’*, the prayer or the recitation, do not pay attention to it.’”[563]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ مَنْ يُسَلِّمُ عَلَى قَوْمٍ فِي الْخُطْبَةِ أَوْ فِي الصَّلوةِ

51. SOMEONE WHO GREETS PEOPLE DURING THE KHUTBAH OR THE PRAYER

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

١٨٠ - مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : يَرُدُّ السَّلَامَ وَيُشَمِّتُ الْعَاطِسَ ، وَالْإِمَامُ يَخْطُبُ يَوْمَ الْجُمُعَةِ

180. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm[564] said, ‘One returns the greeting and asks for blessings[565] on the person who sneezes while the imam is delivering the *khuṭbah* on the day of Jumuʿah.’”[566]

قَالَ مُحَمَّدٌ : وَلَسْنَا نَأْخُذُ بِهَذَا ، وَلَكِنَّا نَأْخُذُ بِقَوْلِ سَعِيدِ بْنِ الْمُسَيَّبِ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, “We do not adhere to this,[567] but we adhere to the verdict of Saʿīd ibn al-Musayyab, may Allah, exalted is He, have mercy on him.”

١٨١ - مُحَمَّدٌ قَالَ : أَخْبَرَنَا سُفْيَانُ بْنُ عُيَيْنَةَ عَنْ عَبْدِ اللَّهِ بْنِ سَعِيدِ بْنِ أَبِي هِنْدٍ قَالَ: قُلْتُ لِسَعِيدِ بْنِ الْمُسَيَّبِ : إِنَّ فُلَانًا عَطَسَ وَالْإِمَامُ يَخْطُبُ فَشَمَّتَهُ فُلَانٌ ، قَالَ : مُرْهُ فَلَا يَعُودَنَّ،

181. Muḥammad said, “Sufyān ibn ʿUyaynah informed us that ʿAbdullāh ibn Saʿīd ibn Abī Hind said, ‘I said to Saʿīd ibn al-Musayyab, “So-and-so sneezed while the imam was delivering the *khuṭbah* and so-and-so asked for mercy for him.” He said, “Tell him he must not do it again.”””[568]

قَالَ مُحَمَّدٌ : وَبِهَذِهِ نَأْخُذُ ، الْخُطْبَةُ بِمَنْزِلَةِ الصَّلوةِ لَا يُشَمَّتُ فِيهَا الْعَاطِسُ ، وَلَا يُرَدُّ فِيهَا السَّلَامُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ.

Muḥammad said, “We adhere to this. The *khuṭbah* has the same rank as the prayer.[569] During it one does not ask for blessings on the person who sneezes[570] nor does one return greetings.[571] That is the verdict of Abū Ḥanīfah.”

١٨٢ - مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّهُ قَالَ فِي الرَّجُلِ يَدْخُلُ عَلَى صَاحِبِهِ فَيُسَلِّمُ عَلَيْهِ وَهُوَ يُصَلِّي ، قَالَ: أَلَيْسَ يَقُولُ إِذَا تَشَهَّدَ : اَلسَّلَامُ عَلَيْنَا وَعَلَى عِبَادِ اللَّهِ الصَّالِحِينَ ؟ فَقَدْ رَدَّ عَلَيْهِ.

182. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that he said[572] concerning someone who goes to visit his friend and greets him while he is praying, ‘Does he not say[573] in

the *tashahhud*, “Peace be upon us and upon the right-acting slaves of Allah”? So he has already returned his greeting.’”[574]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَلَا يُعْجِبُنَا أَنْ يَرُدَّ عَلَيْهِ السَّلَامَ وَهُوَ يَصَلِّي ، وَلَا يُعْجِبُنَا أَنْ يُسَلِّمَ الرَّجُلُ عَلَيْهِ وَهُوَ يُصَلِّي ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere to this. It does not please us that someone should return the greeting while praying, nor that someone should greet a person who is praying, and that is the verdict of Abū Ḥanīfah.”

١٨٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يَجْلِسُ خَلْفَ الْإِمَامِ قَدْرَ التَّشَهُّدِ ، ثُمَّ يَنْصَرِفُ قَبْلَ أَنْ يُسَلِّمَ الْإِمَامُ ، قَالَ : لا يُجْزِئُهُ وَقَالَ عَطَاءُ بْنُ أَبِي رَبَاحٍ : إِذَا جَلَسَ قَدْرَ التَّشَهُّدِ أَجْزَأَهُ . قَالَ أَبُو حَنِيفَةَ : قَوْلِي قَوْلُ عَطَاءٍ .

183. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who sits behind the imam for the length of the *tashahhud* and then finishes before the imam, ‘It is not valid for him,’[575] but ʿAṭā’ ibn Abī Rabāḥ said, ‘If he sits for the length of the *tashahhud* it is valid for him.’[576] Abū Ḥanīfah said, ‘My verdict is the verdict of ʿAṭā’ ibn Abī Rabāḥ.’”

قَالَ مُحَمَّدٌ : وَ بِقَوْلِ عَطَاءٍ نَأْخُذُ نَحْنُ أَيْضاً .

Muḥammad said, “We also adhere to the verdict of ʿAṭā’ ibn Abī Rabāḥ.”

١٨٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا شُعْبَةُ بْنُ الْحَجَّاجِ عَنْ أَبِي النَّضْرِ قَالَ : سَمِعْتُ حَمَلَةَ بْنَ عَبْدِ الرَّحْمَنِ : يَقُولُ سَمِعْتُ عُمَرَ بْنَ الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ يَقُولُ : لَا صَلوٰةَ إِلاَّ بِتَشَهُّدٍ .

184. Muḥammad said, “Shuʿbah ibn al-Ḥajjāj informed us that Abū’n-Naḍr said, ‘I heard Ḥamalah ibn ʿAbd ar-Raḥmān saying, “I heard ʿUmar ibn al-Khaṭṭāb ؓ saying, ‘There is no prayer without a *tashahhud.*’”’”

قَالَ مُحَمَّدٌ : وَبِهٰذَا نَأْخُذُ ، فَإِذَا تَشَهَّدَ فَقَدْ قَضَى الصَّلٰوةَ ، فَإِنِ انْصَرَفَ قَبْلَ أَنْ يُسَلِّمَ أَجْزَأَتْهُ ، وَلَا يَنْبَغِي لَهُ أَنْ يَتَعَمَّدَ لِذٰلِكَ .

Muḥammad said, “We adhere to this. Then when someone says the *tashahhud* they have done the prayer, and if they finish before saying the *salām* that is valid for them, but they ought not to do that[577] deliberately.”

◆

بَابُ تَخْفِيفِ الصَّلٰوةِ

52. LIGHTENING THE PRAYER

١٨٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ : أَنَّ رَجُلًا مِنْ أَصْحَابِ النَّبِيِّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ أَمَّ قَوْمًا ، فَأَطَالَ بِهِمُ الصَّلٰوةَ ، فَبَلَغَ ذٰلِكَ النَّبِيَّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ ، فَقَالَ : مَا بَالُ أَقْوَامٍ يُنَفِّرُونَ عَنْ هٰذَا الدِّينِ ؟ مَنْ أَمَّ قَوْمًا فَلْيُخَفِّفْ ، فَإِنَّ فِيهِمُ الْمَرِيضَ ، وَ الْكَبِيرَ ، وَذَا الْحَاجَةِ .

185. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘A man[578] from among the Companions of the Prophet ﷺ led some people in prayer and he lengthened the prayer with them. That reached the Prophet ﷺ and he said, “What is wrong with people who scare people away from this *dīn*? Whoever

leads a people in prayer should lighten it,[579] because among them are the sick, the elderly and those with pressing needs.”’”[580]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَلَا بُدَّ أَنْ يُتِمَّ الرُّكُوعَ وَالسُّجُودَ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere to this,[581] but he must complete the bowing and prostration fully, and that is the verdict of Abū Ḥanīfah.”

١٨٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنِي مَيْمُونُ بْنُ سِيَاهٍ : عَنِ الْحَسَنِ الْبَصْرِيِّ قَالَ : سَأَلَهُ سَائِلٌ : أَقْرَأُ خَمْسَ مِائَةِ آيَةٍ فِي رَكْعَةٍ ؟ قَالَ : فَتَعَجَّبَ وَقَالَ : سُبْحَانَ اللَّهِ : مَنْ يُطِيقُ هَذَا ؟ قَالَ الرَّجُلُ : أَنَا أُطِيقُ هَذَا ، قَالَ : إِنَّ أَحَبَّ الصَّلَوةِ إِلَى اللَّهِ طُولُ الْقُنُوتِ .

186. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Maymūn ibn Siyāh narrated to me from al-Ḥasan al-Baṣrī that someone asked him, “Should I recite five hundred *āyāt* in a *rakʿah*?”[582] and he was astonished[583] and said, “Glorious is Allah! Who is able to do this?” The man said, “I am able to do this.” He said, “The most beloved prayer to Allah is [that in which there is] long continuance of standing in obedience and humble stillness (*qunūt*[584]).”’”

قَالَ مُحَمَّدٌ : طُولُ الْقِيَامِ فِي صَلَوةِ التَّطَوُّعِ أَحَبُّ إِلَيْنَا مِن كَثْرَةِ الرُّكُوعِ وَالسُّجُودِ ، وَكُلُّ ذَلِكَ حَسَنٌ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “Long continuance of standing in supererogatory prayers is preferable to us to much bowing and prostrating,[585] but all of that is good, and that is the verdict of Abū Ḥanīfah.”

١٨٧- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ : أَنَّ عُمَرَ بْنَ الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ أَمَّ أَصْحَابَهُ فِي صَلَوةِ الصُّبْحِ ، فَقَرَأَ بِهِمْ فِي الرَّكْعَةِ الْأُولَى بِـ﴿قُلْ يَا أَيُّهَا الْكَافِرُونَ﴾ ، وَفِي الثَّانِيَةِ ﴿لِإِيلَافِ قُرَيْشٍ﴾ .

187. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿUmar ibn al-Khaṭṭāb ﵁ led his companions in the dawn prayer and recited for them[586] in the first *rakʿah*, ‘*Say: “Kāfirūn!…*”’ (Sūrat al-Kāfirūn) and in the second, ‘*In acknowledgment of the established tradition of Quraysh…*’ (Sūrah Quraysh).”[587] [588]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، نَرَاهُ مُجْزِئًا ، وَلَكِنَّا نَسْتَحِبُّ لِلْإِمَامِ إِذَا صَلَّى الصُّبْحَ : وَهُوَ مُقِيمٌ أَنْ يُطِيلَ فِيهَا الْقِرَاءَةَ ، وَأَنْ يَقْرَأَ فِي كُلِّ رَكْعَةٍ بِسُورَةٍ تَكُونُ عِشْرِينَ آيَةً فَصَاعِدًا سِوَى فَاتِحَةِ الْكِتَابِ ، وَيُطِيلَ الْأُولَى عَلَى الثَّانِيَةِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere to this and we regard it as valid,[589] but we prefer that when the imam prays the dawn prayer while being resident[590] he should lengthen the recitation in it and he should recite in each *rakʿah* a sūrah of twenty or more *āyāt* apart from the Fātiḥah of the Book, and that he should make the first [*rakʿah*] longer than the second. That is the verdict of Abū Ḥanīfah.”

بَابُ الصَّلَوةِ فِي السَّفَرِ

53. PRAYER WHILE TRAVELLING

١٨٨– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ قَالَ : حَدَّثَنَا مُوسَى بْنُ مُسْلِمٍ عَنْ
مُجَاهِدٍ ، عَنْ عَبْدِ اللهِ بْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا قَالَ : إِذَا كُنْتَ مُسَافِرًا فَوَطَّنْتَ
نَفْسَكَ عَلَى إِقَامَةِ خَمْسَةَ عَشَرَ يَوْمًا فَأَتِمِّ الصَّلَوةَ ، وَإِنْ كُنْتَ لَا تَدْرِي فَاقْصُرْ .

188. Muḥammad said, “Abū Ḥanīfah informed us that Ḥammād[591] said, ‘Mūsā ibn Muslim narrated to us from Mujāhid that ʿAbdullāh ibn ʿUmar ﵄ said, “When you are travelling and you make up your mind to reside for fifteen days, do the full prayer, but if you do not know[592] [whether or not you will reside for fifteen days], shorten it.”’”[593]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah.”

١٨٩– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ عُمَرَ بْنِ الْخَطَّابِ
رَضِيَ اللَّهُ عَنْهُ أَنَّهُ صَلَّى بِالنَّاسِ بِمَكَّةَ الظُّهْرَ رَكْعَتَيْنِ ، ثُمَّ انْصَرَفَ فَقَالَ : يَا أَهْلَ مَكَّةَ !
إِنَّا قَوْمٌ سَفْرٌ فَمَنْ كَانَ من أَهْلِ الْبَلَدِ فَلْيُكْمِلْ . فَأَكْمَلَ أَهْلُ الْبَلَدِ .

189. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿUmar ibn al-Khaṭṭāb ﵁ led people in prayer[594] in Makkah with two *rakʿahs* and then finished the prayer. He said, ‘People of Makkah, we are travellers, so those who are from the people of the city should complete the prayer.’ So the people of the city completed it.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ إِذَا دَخَلَ الْمُقِيمُ فِي صَلَوةِ الْمُسَافِرِ فَقَضَى الْمُسَافِرُ صَلَاتَهُ قَامَ
الْمُقِيمُ فَأَتَمَّ صَلَاتَهُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere to this. When someone who is resident joins the prayer of a traveller and the traveller finishes the prayer, the person who is resident must stand up and complete the prayer, and that is the verdict of Abū Ḥanīfah.”

١٩٠– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا دَخَلَ الْمُسَافِرُ فِي صَلٰوةِ الْمُقِيمِ أَكْمَلَ .

190. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘When the traveller joins the prayer of the resident person, he completes the prayer.’”[595]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ إِذَا دَخَلَ الْمُسَافِرُ مَعَ الْمُقِيمِ وَجَبَ عَلَيْهِ صَلٰوةُ الْمُقِيمِ أَرْبَعًا ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere to this. When the traveller joins with the resident person he must do the prayer of the resident person,[596] i.e., four *rakʿahs*, and that is the verdict of Abū Ḥanīfah.”

١٩١– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ ، عَنْ عَبْدِ اللّٰهِ بْنِ مَسْعُودٍ رَضِيَ اللّٰهُ عَنْهُ قَالَ : لَا يَغُرَّنَّكُمْ مَحْشَرُكُمْ هٰذَا مِن صَلَاتِكُمْ ، يَغِيبُ الرَّجُلُ مِنْكُمْ فِي ضَيْعَتِهِ فَيَقْصُرُ ، وَيَقُولُ : أَنَا مُسَافِرٌ ،

191. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿAbdullāh ibn Masʿūd ؓ said, ‘Let this absence from your ordinary abode[597] not deceive you about your prayer; i.e., when a man is absent on his estates[598] and thus shortens the prayer saying, “I am a traveller.”’”[599]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، إِذَا كَانَ عَلَى مَسِيرَةٍ أَقَلَّ مِنْ ثَلَاثَةِ أَيَّامٍ وَ لَيَالِيهَا أَتَمَّ الصَّلَوةَ ،
فَإِذَا كَانَ عَلَى مَسِيرَةِ ثَلَاثَةِ أَيَّامٍ وَلَيَالِيهَا فَصَاعِدًا ، وَلَمْ يَكُنْ لَهُ بِهَا أَهْلٌ ، وَلَمْ يُوَطِّنْ نَفْسَهُ
عَلَى إِقَامَةِ خَمْسَ عَشَرَةَ فَلْيَقْصُرِ الصَّلَوةَ ، فَإِذَا وَطَّنَ نَفْسَهُ عَلَى إِقَامَةِ خَمْسَ عَشَرَةَ أَتَمَّ
الصَّلَوةَ مَا دَامَ فِي ضَيْعَتِهِ ، فَإِذَا خَرَجَ رَاجِعًا إِلَى أَهْلِهِ قَصَرَ الصَّلَوةَ ، وَمَسِيرَةُ ثَلَاثَةِ أَيَّامٍ
وَلَيَالِيهَا بِالْقَصْدِ بِسَيْرِ الْإِبِلِ وَمَشْيِ الْأَقْدَامِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere to this. If one is at a distance less than the travel of three days and nights one completes the prayer, but if one is at a distance of the travel of three days and nights or more, having no wife and family (*ahl*)[600] [601] there and not having decided on staying for fifteen days, then one shortens the prayer. If one decides on staying for fifteen days then one prays the full prayer as long as one is on one’s estate, but then when one sets out again to return to one’s family one shortens the prayer. The distance of three days and nights travel is with the meaning of camels’ travelling or walking on foot, and that is the verdict of Abū Ḥanīfah.”

١٩٢– مُحَمَّدٌ قَالَ : أَخْبَرَنَا سَعِيدُ بْنُ عُبَيْدٍ الطَّائِيُّ ، عَنْ عَلِيِّ بْنِ رَبِيعَةَ الْوَالِبِيِّ
قَالَ : سَأَلْتُ عَبْدَ اللَّهِ بْنَ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا إِلَى كَمْ تُقْصَرُ الصَّلَوةُ ؟ فَقَالَ : أَتَعْرِفُ
السُّوَيْدَاءَ ؟ قَالَ : قُلْتُ : لَا ، وَلَكِنِّي قَدْ سَمِعْتُ بِهَا ، قَالَ : هِيَ ثَلَاثُ لَيَالٍ قَوَاصِدَ ،
فَإِذَا خَرَجْنَا إِلَيْهَا قَصَرْنَا الصَّلَوةَ .

192. Muḥammad said, “Saʿīd ibn ʿUbayd aṭ-Ṭā’ī informed us that ʿAlī ibn Rabīʿah al-Wālibī said, ‘I asked ʿAbdullāh ibn ʿUmar ﵄, “At what point do you shorten the prayer?[602]” He said, “Do you know as-Suwaydā’?[603]” I said, “No, but I have heard of it.” He said, “It is three easy[604] nights’ journey. When we go out to it, we shorten the prayer.”””

قَالَ مُحَمَّدٌ : وَبِهَذَا نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah.”

١٩٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا دَخَلَ الْمُقِيمُ فِي صَلَوةِ الْمُسَافِرِ فَلْيُصَلِّ مَعَهُ رَكْعَتَيْنِ ، ثُمَّ لِيَقُمْ ، فَلْيُتِمَّ صَلَاتَهُ .

193. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us that Ibrāhīm said, “When a person who is resident joins someone who is travelling in prayer let him pray two *rakʿahs* with him and then let him stand up and complete his prayer.”’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah.”

بَابُ صَلوةِ الْخَوْفِ

53. THE PRAYER OF FEAR[605]

١٩٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي صَلَوةِ الْخَوْفِ قَالَ :
إِذَا صَلَّى الْإِمَامُ بِأَصْحَابِهِ فَلْتَقُمْ طَائِفَةٌ مِنْهُمْ مَعَ الْإِمَامِ. وَطَائِفَةٌ بِإِزَاءِ الْعَدُوِّ ، فَيُصَلِّي
الْإِمَامُ بِالطَّائِفَةِ الَّذِينَ مَعَهُ رَكْعَةً ثُمَّ تَنْصَرِفُ الطَّائِفَةُ الَّذِينَ صَلَّوْا مَعَ الْإِمَامِ مِن غَيْرِ أَنْ
يَتَكَلَّمُوا حَتَّى يَقُومُوا مَقَامَ أَصْحَابِهِمْ ، وَتَأْتِي الطَّائِفَةُ الْأُخْرَى فَيُصَلُّونَ مَعَ الْإِمَامِ الرَّكْعَةَ
الْأُخْرَى، ثُمَّ يَنْصَرِفُونَ مِن غَيْرِ أَنْ يَتَكَلَّمُوا حَتَّى يَقُومُوا فِي مَقَامِ أَصْحَابِهِمْ وَتَأْتِي
الطَّائِفَةُ الْأُولَى حَتَّى يُصَلُّوا رَكْعَةً وُحْدَانًا ثُمَّ يَنْصَرِفُونَ فَيَقُومُونَ مَقَامَ أَصْحَابِهِمْ وَتَأْتِي
الطَّائِفَةُ الْأُخْرَى حَتَّى يَقْضُوا الرَّكْعَةَ الَّتِي بَقِيَتْ عَلَيْهِمْ وُحْدَانًا .

194. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning the prayer of fear,[606] 'When the imam prays[607] with his companions let a party of them stand with the imam and a party stand facing the enemy. The imam should pray a single *rakʿah*[608] with the party with him and then the party who have prayed with the imam should go[609] without speaking and take the place of their companions,[610] and the other party should come and pray the other *rakʿah* with the imam, and then leave without talking and take the place of their companions who should come and individually pray a *rakʿah*[611] and then go and take their companions' places who should come and individually complete[612] the *rakʿah* that remains.'"[613]

١٩٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا الْحَارِثُ بْنُ عَبْدِ الرَّحْمنِ عَنْ عَبْدِ
اللّٰهِ بْنِ عَبَّاسٍ رَضِيَ اللّٰهُ عَنْهُمَا مِثْلَ ذَلِكَ .

195. Muḥammad said, "Abū Ḥanīfah informed us saying, 'Al-Ḥārith ibn ʿAbd ar-Raḥmān narrated the like of that to us from ʿAbdullāh ibn ʿAbbās ﷺ.'"

قَالَ مُحَمَّدٌ : وَبِهَذَا كُلِّهِ نَأْخُذُ ، وَأَمَّا الطَّائِفَةُ الْأُولَى فَيَقْضُونَ رَكْعَتَهُمْ بِغَيْرِ قِرَاءَةٍ لِأَنَّهُمْ أَدْرَكُوا أَوَّلَ الصَّلَوةِ مَعَ الْإِمَامِ فَقِرَاءَةُ الْإِمَامِ لَهُمْ قِرَاءَةٌ، وَأَمَّا الطَّائِفَةُ الْأُخْرَى فَإِنَّهُمْ يَقْضُونَ رَكْعَتَهُمْ بِقِرَاءَةٍ لِأَنَّهَا فَاتَتْهُمْ مَعَ الْإِمَامِ، وَهَذَا كُلُّهُ قَوْلُ أَبِي حَنِيفَةَ.

Muḥammad said, “We adhere to all of this. As for the first party they complete their *rakʿah* without recitation of the Qur’ān because they caught the beginning of the prayer[614] with the imam and the imam’s recitation of the Qur’ān is their own. As for the other party, they complete their *rakʿah* with recitation of the Qur’ān[615] because they missed it with the imam. This is all the verdict of Abū Ḥanīfah.”

١٩٦- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يُصَلِّي فِي الْخَوْفِ وَحْدَهُ قَالَ : يُصَلِّي قَائِمًا مُسْتَقْبِلَ الْقِبْلَةِ ، فَإِنْ لَمْ يَسْتَطِعْ فَرَاكِبًا مُسْتَقْبِلَ الْقِبْلَةِ، فَإِنْ لَمْ يَسْتَطِعْ فَلْيُومِ أَيْنَمَا كَانَ وَجْهُهُ ، لَا يَسْجُدُ عَلَى شَيْءٍ. لِيُوْمِي إِيمَاءً ، وَيَجْعَلُ سُجُودَهُ أَخْفَضَ مِنْ رُكُوعِهِ وَلَا يَدَعُ الْوُضُوءَ وَالْقِرَاءَةَ فِي الرَّكْعَتَيْنِ.

196. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us that Ibrāhīm said concerning the man who prays the prayer of fear by himself, “He prays standing facing the *qiblah*, then if he is not able then mounted facing the *qiblah*, then if he is not able he should make the motions[616] in whatever direction he is facing, while not prostrating on anything. He indicates the prayer by motions, making the [motion indicating] his prostration lower than [that indicating] his bowing, but he must not give up *wuḍū’* or recitation of the Qur’ān[617] in the two *rakʿahs*.”’”[618]

قَالَ مُحَمَّدٌ : وَبِهَذَا كُلِّهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ.

Muḥammad said, “We adhere to all of this and it is the verdict of Abū Ḥanīfah.”

بَابُ صَلٰوةِ مَنْ خَافَ النِّفَاقَ

54. THE PRAYER OF SOMEONE WHO FEARS HYPOCRISY[619]

١٩٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا جَوَّابٌ التَّيْمِيُّ ، عَنْ أَبِي مُوسَى
الْأَشْعَرِيِّ رَضِيَ اللَّهُ عَنْهُ : أَنَّ رَجُلاً أَتَاهُ، فَقَالَ : إِنِّي أَتَخَوَّفُ عَلَى نَفْسِي النِّفَاقَ ،
فَقَالَ لَهُ أَبُومُوسَى رَضِيَ اللَّهُ عَنْهُ : أَمَا صَلَّيْتَ قَطُّ حَيْثُ لَا يَرَاكَ أَحَدٌ إِلَّا اللَّهُ؟ قَالَ :
بَلَى ؛ قَالَ : فَإِنَّ الْمُنَافِقَ لا يُصَلِّي حَيْثُ لَا يَرَاهُ أَحَدٌ إِلَّا اللَّهُ عَزَّوَجَلَّ .

197. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Jawāb at-Taymī narrated to us from Abū Mūsā al-Ashʿarī ؓ that a man came to him and said, “I fear hypocrisy for myself.” So Abū Mūsā ؓ said, “Have you never prayed where no one but Allah saw you?”[620] He said, “Of course I have.” He said, “The hypocrite does not pray where no one but Allah ﷻ sees him.”””

بَابُ تَشْمِيتِ الْعَاطِسِ

55. ASKING FOR BLESSINGS[621] ON SOMEONE WHO SNEEZES

١٩٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا عَطَسَ
الرَّجُلُ فَقَالَ : الْحَمْدُ لِلَّهِ؛ فَقُلْ : يَرْحَمُنَا اللَّهُ وَإِيَّاكَ ، وَلْيَقُلِ الَّذِي عَطَسَ : يَغْفِرُ اللَّهُ
لَنَا وَلَكَ .

198. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man sneezes and says, “Praise be to Allah,”

then say, “May Allah have mercy on us and on you,”[622] and let the one who sneezed say, “May Allah forgive us and you.”””[623]

◆

بَابُ صَلٰوةِ يَوْمِ الْجُمُعَةِ وَالْخُطْبَةِ

56. THE PRAYER ON THE DAY OF JUMUʿAH AND THE *KHUṬBAH*

١٩٩– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا غَيْلَانُ وَأَيُّوبُ بْنُ عَائِذٍ الطَّائِيُّ ، عَنْ مُحَمَّدِ بْنِ كَعْبٍ الْقُرَظِيِّ رَضِيَ اللَّهُ عَنْهُ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ : أَرْبَعَةٌ لَا جُمُعَةَ عَلَيْهِمْ : الْمَرْأَةُ ، وَالْمَمْلُوكُ ، وَالْمُسَافِرُ ، وَالْمَرِيضُ . قَالَ أَبُو حَنِيفَةَ : فَإِنْ فَعَلُوا أَجْزَأَهُمْ .

199. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ghaylān and Ayyūb ibn ʿĀ’idh aṭ-Ṭā’ī narrated to us from Muḥammad ibn Kaʿb al-Quraẓī ﷺ that the Prophet ﷺ said, “There are four people who are not obliged to attend the Jumuʿah: women, slaves, travellers and those who are sick.”’ Abū Ḥanīfah said, ‘If they do it, it is valid for them.’”[624] [625]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ .

Muḥammad said, “We adhere to this.”

٢٠٠– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ : أَنَّ رَجُلًا سَأَلَهُ عَنِ الْخُطْبَةِ يَوْمَ الْجُمُعَةِ . فَقَالَ : أَمَا تَقْرَأُ سُورَةَ الْجُمُعَةِ؟ قَالَ : بَلَى ؛ وَلَكِنِّي لَا أَدْرِي كَيْفَ هِيَ ؟ قَالَ : ﴿ وَإِذَا رَأَوْا تِجَارَةً أَوْ لَهْوًا انْفَضُّوا إِلَيْهَا وَتَرَكُوكَ قَائِمًا ﴾ ، فَالْخُطْبَةُ قَائِمًا يَوْمَ الْجُمُعَةِ .

200. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm from ʿAbdullāh ibn Masʿūd ؓ that a man asked him about the *khuṭbah*[626] on the day of Jumuʿah, and he said, ‘Don’t you read Sūrat al-Jumuʿah?’[627] He said, ‘Yes, of course, but I do not know how it is.’ He said, ‘“*But when they see a chance of trade or entertainment they scatter off to it and leave you standing there*,” (Sūrat al-Jumuʿah: 11) so the *khuṭbah* is done standing on the day of Jumuʿah.’”[628]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، إِلاَّ أَنَّهَا خُطْبَتَانِ بَيْنَهُمَا جَلْسَةٌ خَفِيفَةٌ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this,[629] except that there are two *khuṭbahs*[630] in between which there is a short sitting,[631] and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

بَابُ صَلوةِ الْعِيدَيْنِ

57. THE PRAYER OF THE TWO ʿĪDS

٢٠١- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ قَالَ : سَأَلْتُ إِبْرَاهِيمَ عَنِ الرَّجُلِ يَخْرُجُ إِلَى الْمُصَلَّى فَيَجِدُ الْإِمَامَ قَدِ انْصَرَفَ أَيُصَلِّي؟ قَالَ : لَيْسَ عَلَيْهِ أَنْ يُصَلِّيَ ، وَإِنْ شَاءَ صَلَّى . قُلْتُ : فَإِنْ لَمْ يَخْرُجْ إِلَى الْمُصَلَّى أَيُصَلِّي فِي بَيْتِهِ كَمَا يُصَلِّي الْإِمَامُ؟ قَالَ : لاَ .

201. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us saying, “I asked Ibrāhīm about a man who goes out to

the place of prayer (*muṣallā*)[632] and finds that the imam has already prayed, ‘Should he pray by himself?’ He said, ‘He doesn’t have to pray,[633] but if he wishes he may pray.’ I said, ‘If he doesn’t go out to the place of prayer, should he pray in his house in the same way as the imam does it?’ He said, ‘No.’”””[634]

قَالَ مُحَمَّدٌ : وَ بِهِ نَأْخُذُ ، إِنَّمَا صَلوةُ الْعِيدِ مَعَ الْإِمَامِ ، فَإِذَا فَاتَتْكَ مَعَ الْإِمَامِ فَلَا صَلوةَ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ .

Muḥammad said, “We adhere to this. The *ʿĪd* is only with the imam, so if you miss it with the imam, then there is no prayer [to be done],[635] and that is the verdict of Abū Ḥanīfah.”

٢٠٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ أَنَّهُ كَانَ قَاعِدًا فِي مَسْجِدِ الْكُوفَةِ ، وَمَعَهُ حُذَيْفَةُ بْنُ الْيَمَانِ رَضِيَ اللَّهُ عَنْهُ وَ أَبُومُوسَى الْأَشْعَرِيِّ رَضِيَ اللَّهُ عَنْهُ ، فَخَرَجَ عَلَيْهِمُ الْوَلِيدُ بْنُ عُقْبَةَ بْنِ أَبِي مُعَيْطٍ وَهُوَ أَمِيرُ الْكُوفَةِ يَوْمَئِذٍ ، فَقَالَ : إِنَّ غَداً عِيدُكُمْ ، فَكَيْفَ أَصْنَعُ ؟ فَقَالَ : أَخْبِرْهُ يَا أَبَا عَبْدِ الرَّحْمَنِ كَيْفَ يَصْنَعُ ؟ فَأَمَرَهُ عَبْدُ اللَّهِ بْنُ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ أَنْ يُصَلِّيَ بِغَيْرِ أَذَانٍ وَلَا إِقَامَةٍ ، وَأَنْ يُكَبِّرَ فِي الْأُولَى خَمْسًا ، وَفِي الثَّانِيَةِ أَرْبَعًا ، وَأَنْ يُوَالِيَ بَيْنَ الْقِرَاءَتَيْنِ ، وَأَنْ يَخْطُبَ بَعْدَ الصَّلوةِ عَلَى رَاحِلَتِهِ .

202. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿAbdullāh ibn Masʿūd was seated in the mosque of Kufa, and along with him were Ḥudhayfah ibn al-Yamān and Abū Mūsā al-Ashʿarī. Al-Walīd ibn ʿUqbah ibn Abī Muʿayṭ came up to them, and he was the *amir* of Kufa at that time. He said, ‘Tomorrow is your *ʿĪd*, so what should I do?’ The two of them said, ‘Abū ʿAbd ar-Raḥmān,[636] tell him what he should do.’ So ʿAbdullāh ibn Masʿūd told him to pray without the call to prayer or the *iqāmah*,[637] and to say the *takbīr* five times[638] in the first

[*rakʿah*] and four times[639] in the second and to do the two recitations consecutively,[640] and to deliver the *khuṭbah*[641] on his mount after the prayer.”[642]

قَالَ مُحَمَّدٌ : وَ بِهِ نَأْخُذُ ، وَلَا بَأْسَ أَنْ يَخْطُبَهَا قَائِمًا ، وَإِنْ لَمْ يَكُنْ عَلَى رَاحِلَتِهِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this, but there is no harm if he does the *khuṭbah* standing even if he is not on his mount. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٢٠٣– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : كَانَتِ الصَّلَوٰةُ فِي الْعِيدَيْنِ قَبْلَ الْخُطْبَةِ . ثُمَّ يَقِفُ الْإِمَامُ عَلَى رَاحِلَتِهِ بَعْدَ الصَّلَوٰةِ ، فَيَدْعُو وَيُصَلِّي بِغَيْرِ أَذَانٍ وَلَا إِقَامَةٍ .

203. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘The prayer on the two ʿĪds is always done before the *khuṭbah*. Then the imam pauses on his mount after the prayer. He supplicates [gives the *khuṭbah*][643] and prays, without a call to prayer or *iqāmah*.’”

◆

بَابُ خُرُوجِ النِّسَاءِ فِي الْعِيدَيْنِ وَرُؤْيَةِ الْهِلَالِ

58. WOMEN GOING OUT TO ATTEND THE TWO ʿĪDS, AND SIGHTING THE NEW MOON

٢٠٤– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ عَبْدِ الْكَرِيمِ بْنِ أَبِي الْمُخَارِقِ عَنْ أُمِّ عَطِيَّةَ رَضِيَ اللَّهُ عَنْهَا قَالَتْ : كَانَ يُرَخَّصُ لِلنِّسَاءِ فِي الْخُرُوجِ فِي الْعِيدَيْنِ : الْفِطْرُ وَالْأَضْحَى .

204. Muḥammad said, “Abū Ḥanīfah informed us from ʿAbd al-Karīm ibn Abī’l-Mukhāriq that Umm ʿAṭiyyah ؓ said, ‘Women used to be granted as a concession[644] to go out to attend the two *ʿĪds*: *al-Fiṭr* and *al-Aḍḥā*.’”[645]

قَالَ مُحَمَّدٌ : لَا يُعْجِبُنَا خُرُوجُهُنَّ فِي ذَلِكَ إِلَّا الْعَجُوزَ الْكَبِيرَةَ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “Their going out to attend the *ʿĪd* does not please us,[646] except for old women beyond child-bearing age. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٢٠٥– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي قَوْمٍ شَهِدُوا أَنَّهُمْ رَأَوْا هِلَالَ شَوَّالَ، فَقَالَ حَمَّادٌ : سَأَلْتُ إِبْرَاهِيمَ عَنْ ذَلِكَ، فَقَالَ: إِنْ جَاءُوا صَدْرَ النَّهَارِ فَلْيُفْطِرُوا ، وَلْيَخْرُجُوا ، وَإِنْ جَاءُوا آخِرَ النَّهَارِ فَلَا يَخْرُجُوا ، وَلَا يُفْطِرُوا حَتَّى الْغَدِ .

205. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm concerning people who testified that they had seen the new moon of Shawwāl. Ḥammād said, ‘I asked Ibrāhīm about that and he said, “If they come in the morning, then they should break the fast[647] and go out [to the place of prayer],[648] but if they come in the evening, they should not go out [to the place of prayer] nor should they break the fast until the next day.”’”

قَالَ مُحَمَّدٌ : وَ بِهِ نَأْخُذُ ، إِلَّا فِي خَصْلَةٍ وَاحِدَةٍ، يُفْطِرُونَ وَ يَخْرُجُونَ مِنَ الْغَدِ إِذَا جَاءُوا مِنَ الْعَشِيِّ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this except in one respect:[649] they break the fast[650] and go out [to the place of prayer][651] the day after if they come [as witnesses] in the evening, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ مَنْ يَطْعَمُ قَبْلَ أَنْ يَخْرُجَ إِلَى الْمُصَلَّى

59. SOMEONE WHO EATS BEFORE GOING OUT TO THE PLACE OF PRAYER (*MUṢALLĀ*)

٢٠٦ - مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّهُ كَانَ يُعْجِبُهُ أَنْ يَطْعَمَ شَيْئًا قَبْلَ أَنْ يَأْتِيَ الْمُصَلَّى ، يَعْنِي يَوْمَ الْفِطْرِ .

206. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that it used to please[652] Ibrāhīm to eat something[653] before going to the place of prayer, meaning on the day of *al-Fiṭr*.”

٢٠٧ - مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّهُ كَانَ يَطْعَمُ يَوْمَ الْفِطْرِ قَبْلَ أَنْ يَخْرُجَ ، وَلَا يَطْعَمُ يَوْمَ الْأَضْحَى حَتَّى يَرْجِعَ .

207. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm used to eat on the day of *al-Fiṭr* before going out, but he would not eat on the day of *al-Aḍḥā*[654] until he returned.”[655]

قَالَ مُحَمَّدٌ : وَ بِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ التَّكْبِيرِ فِي أَيَّامِ التَّشْرِيقِ

60. SAYING *TAKBĪR*[656] DURING THE DAYS OF *TASHRĪQ*[657]

٢٠٨– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ رَضِيَ اللَّهُ عَنْهُ أَنَّهُ كَانَ يُكَبِّرُ مِنْ صَلوةِ الْفَجْرِ مِنْ يَوْمِ عَرَفَةَ إِلَى صَلوةِ الْعَصْرِ من آخرِ أَيَّامِ التَّشْرِيقِ .

208. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿAlī ibn Abī Ṭālib ﵁ used to say the *takbīr* from the prayer of *Fajr* on the day of ʿArafah until the prayer of *ʿAṣr* on the last of the days of *tashrīq*.”[658]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَلَمْ يَكُنْ أَبُوحَنِيفَةَ يَأْخُذُ بِهذَا ، وَلٰكِنَّهُ كَانَ يَأْخُذُ بِقَوْلِ ابْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ ، يُكَبِّرُ مِنْ صَلوةِ الْفَجْرِ يَوْمَ عَرَفَةَ إِلَى صَلوةِ الْعَصْرِ مِنْ يَوْمِ النَّحْرِ ، يُكَبِّرُ فِي الْعَصْرِ ثُمَّ يَقْطَعُ .

Muḥammad said, “We adhere to this, but Abū Ḥanīfah did not. On the contrary he used to adhere to the verdict of Ibn Masʿūd[659] ﵁ that one says the *takbīr* from the prayer of *Fajr* on the day of ʿArafah until the prayer of *ʿAṣr* on the day of Sacrifice, saying the *takbīr* at *ʿAṣr* and then stopping.”

◆

بَابُ السُّجُودِ فِي ﴿ ص ﴾

61. THE PROSTRATION[660] IN [SŪRAH] ṢĀD

٢٠٩– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّهُ لَمْ يَكُنْ يَسْجُدُ فِي ص . وَعَنْ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ أَنَّهُ لَمْ يَكُنْ يَسْجُد فِيهَا .

209. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm did not use to prostrate in [Sūrah] Ṣād, and that ʿAbdullāh ibn Masʿūd ؓ did not use to prostrate during it.”[661]

قَالَ مُحَمَّدٌ : وَلَكِنَّا نَرَى السُّجُودَ فِيهَا . وَنَأْخُذُ بِالْحَدِيثِ الَّذِي رُوِيَ عَنْ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ .

Muḥammad said, “However, we do think that one should prostrate during it, and we adhere to the hadith narrated from the Messenger of Allah ﷺ.”

٢١٠– مُحَمَّدٌ قَالَ : أَخْبَرَنَا عُمَرُ بْنُ ذَرٍّ الْهَمْدَانِيُّ عَنْ أَبِيهِ عَنْ سَعِيدِ بْنِ جُبَيْرٍ عَنِ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنَّهُ قَالَ فِي سَجْدَةِ ص : سَجَدَهَا دَاوُدُ تَوْبَةً ، وَنَحْنُ نَسْجُدُهَا شُكْرًا .

210. Muḥammad said, “ʿUmar ibn Dharr al-Hamdānī informed us from his father from Saʿīd ibn Jubayr from Ibn ʿAbbās ؓ that the Prophet ﷺ said concerning the prostration in Ṣād, ‘Dāwūd prostrated it[662] in *tawbah*, and we prostrate it out of gratitude.’”[663]

وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

“That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

بَابُ الْقُنُوتِ فِي الصَّلٰوةِ

62. THE *QUNŪT*[664] SUPPLICATION IN PRAYER

٢١١- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّ ابْنَ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ كَانَ يَقْنُتُ السَّنَةَ كُلَّهَا فِي الْوِتْرِ قَبْلَ الرُّكُوعِ .

211. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that Ibn Masʿūd[665] ؓ used to perform the *qunūt* throughout the entire year[666] in the *witr* before bowing."[667]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

٢١٢- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ : أَنَّ الْقُنُوتَ فِي الْوِتْرِ وَاجِبٌ فِي شَهْرِ رَمَضَانَ وَغَيْرِهِ قَبْلَ الرُّكُوعِ ، فَإِذَا أَرَدْتَ أَنْ تَقْنُتَ فَكَبِّرْ ، وَإِذَا أَرَدْتَ أَنْ تَرْكَعَ فَكَبِّرْ أَيْضًا .

212. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that the *qunūt* before bowing during the *witr* is incumbent[668] in the month of Ramaḍān and at other times.[669] When you wish to say the *qunūt* then say the *takbīr*,[670] and when you wish to bow then say the *takbīr* also."[671]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَيَرْفَعُ يَدَيْهِ فِي التَّكْبِيرَةِ الْأُولَى قَبْلَ الْقُنُوتِ كَمَا يَرْفَعُ يَدَيْهِ فِي افْتِتَاحِ الصَّلَوةِ ، ثُمَّ يَضَعُهُمَا وَيَدْعُو ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this. One raises one's hands in the first saying of the *takbīr* before the *qunūt* just as one does in beginning the prayer, and then one places them and supplicates. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

٢١٣ - مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّ ابْنَ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ لَمْ يَقْنُتْ هُوَ وَلَا أَحَدٌ مِنْ أَصْحَابِهِ حَتَّى فَارَقَ الدُّنْيَا ، يَعْنِي فِي صَلٰوةِ الْفَجْرِ .

213. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that Ibn Masʿūd ؓ did not say the *qunūt*,[672] neither he nor any of his companions, until he left the world, meaning not in the prayer of *Fajr*.”[673] [674]

٢١٤ - مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُوحَنِيفَةَ قَالَ : حَدَّثَنَا الصَّلْتُ بْنُ بَهْرَامَ عَنْ أَبِي الشَّعْثَاءِ عَنِ ابْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا أَنَّهُ قَالَ : أَحَقٌّ مَا بَلَغَنَا عَنْ إِمَامِكُمْ أَنَّهُ يَقُومُ فِي الصَّلٰوةِ ، وَلَا يَقْرَأُ الْقُرْآنَ ، وَلَا يَرْكَعُ ؟

214. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Aṣ-Ṣalt ibn Bahrām narrated to us from Abū’sh-Shaʿthā’[675] that Ibn ʿUmar ؓ said, “Is that which has reached us about your imam true, that he stands in prayer[676] without reciting Qur’ān and without bowing?”’”

قَالَ مُحَمَّدٌ : يَعْنِي بِذٰلِكَ ابْنُ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا الْقُنُوتَ فِي صَلٰوةِ الْفَجْرِ .

Muḥammad said, “Ibn ʿUmar ؓ meant by[677] that the *qunūt* in the prayer of *Fajr*.”

٢١٥ - مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ :أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَمْ يُرَ قَانِتًا فِي الْفَجْرِ حَتَّى فَارَقَ الدُّنْيَا ، إِلَّا شَهْرًا وَاحِدًا قَنَتَ (فِيهِ) يَدْعُو عَلَى حَيٍّ من الْمُشْرِكِينَ ، لَمْ يُرَ قَانِتًا قَبْلَهُ وَلَا بَعْدَهُ ، وَأَنَّ أَبَابَكْرٍ رَضِيَ اللَّهُ عَنْهُ لَمْ يُرَ قَانِتًا بَعْدَهُ حَتَّى فَارَقَ الدُّنْيَا .

215. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm, ‘The Prophet ﷺ was not seen saying the *qunūt*[678] in *Fajr* until he left the world except for one month in which he said the *qunūt* supplicating against a tribe of those who associate

partners with Allah; he was not seen saying *qunūt* before it nor after it. And Abū Bakr ﵁ was not seen saying *qunūt* after him until he left the world.'"[679]

٢١٦– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ الأَسْوَدِ بْنِ يَزِيدَ عَنْ عُمَرَ بْنَ الْخَطَّابِ رَضِيَ اللّٰهُ عَنْهُ أَنَّهُ صَحِبَهُ سَنَتَيْنِ فِي السَّفَرِ وَالْحَضَرِ ، فَلَمْ يَرَهُ قَانِتًا فِي الْفَجْرِ حَتَّى فَارَقَهُ. قَالَ إِبْرَاهِيمُ : وَإِنَّ أَهْلَ الْكُوفَةِ إِنَّمَا أَخَذُوا الْقُنُوتَ عَنْ عَلِيٍّ رَضِيَ اللّٰهُ عَنْهُ ، قَنَتَ يَدْعُو عَلَى مُعَاوِيَةَ رَضِيَ اللّٰهُ عَنْهُ حِينَ حَارَبَه ، وَأَمَّا أَهْلُ الشَّامِ فَإِنَّمَا أَخَذُوا الْقُنُوتَ عَنْ مُعَاوِيَةَ رَضِيَ اللّٰهُ عَنْهُ قَنَتَ يَدْعُو عَلَى عَلِيٍّ رَضِيَ اللّٰهُ عَنْهُ حِينَ حَارَبَهُ .

216. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that al-Aswad ibn Yazīd accompanied ʿUmar ibn al-Khaṭṭāb ﵁ for two years, both while travelling and while resident, and he did not see him saying *qunūt* in *Fajr* until he left him. Ibrāhīm said, 'The people of Kufa only learnt the *qunūt* from ʿAlī ﵁ who said the *qunūt* supplicating against Muʿāwiyah ﵁ when he waged war on him. As for the people of Shām, they only learnt the *qunūt* from Muʿāwiyah ﵁ who said the *qunūt* supplicating against ʿAlī ﵁ when he waged war on him.'"[680]

قَالَ مُحَمَّدٌ : وَبِقَوْلِ إِبْرَاهِيمَ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللّٰهُ تَعَالَى .

Muḥammad said, "We adhere to the verdict of Ibrāhīm,[681] and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

◆

بَابُ الْمَرْأَةِ تَؤُمُّ النِّسَاءَ وَكَيْفَ تَجْلِسُ فِي الصَّلٰوةِ

63. A WOMAN LEADING OTHER WOMEN IN PRAYER, AND HOW A WOMAN SITS IN PRAYER

٢١٧– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ رَضِيَ اللَّهُ عَنْهَا أَنَّهَا كَانَتْ تَؤُمُّ النِّسَاءَ فِي شَهْرِ رَمَضَانَ فَتَقُومُ وَسْطًا .

217. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm that ʿĀ’ishah, the Mother of the Mu’minūn ﵂ used to lead women[682] in prayer during the month of Ramaḍān[683] and she would stand in the middle [of the row].’”[684]

قَالَ مُحَمَّدٌ : لَا يُعْجِبُنَا أَنْ تَؤُمَّ الْمَرْأَةُ فَإِنْ فَعَلَتْ قَامَتْ فِي وَسْطِ الصَّفِّ مَعَ النِّسَاءِ كَمَا فَعَلَتْ عَائِشَةُ رَضِيَ اللَّهُ عَنْهَا ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ.

Muḥammad said, “It does not please us[685] that a woman should lead the prayer, but if she does she should stand in the middle of the row[686] with the women as ʿĀ’ishah ﵂ did. That is the verdict of Abū Ḥanīfah.”

٢١٨– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الْمَرْأَةِ تَجْلِسُ فِي الصَّلٰوةِ، قَالَ: تَجْلِسُ كَيْفَ شَاءَتْ .

218. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning women sitting in the prayer, ‘They sit however they wish.’”[687] [688]

قَالَ مُحَمَّدٌ : أَحَبُّ إِلَيْنَا أَنْ تَجْمَعَ رِجْلَيْهَا فِي جَانِبٍ ، وَلَا تَنْتَصِبَ انْتِصَابَ الرَّجُلِ.

Muḥammad said, “It is preferable to us that she should gather her legs to one side, and not set [her foot] erect as do men.”

◆

بَابُ صَلٰوةِ الْأَمَةِ

64. THE PRAYER OF SLAVE WOMEN

٢١٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الْأَمَةِ قَالَ : تُصَلِّي بِغَيْرِ قِنَاعٍ وَلَا خِمَارٍ ، وَإِنْ بَلَغَتْ مِائَةَ سَنَةٍ ، وَإِنْ وَلَدَتْ من سَيِّدِهَا .

219. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning slave women, ‘They pray without head-covering or veil,[689] even if they reach a hundred years and have children by their owner.’”[690]

٢٢٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّ عُمَرَ بن الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ كَانَ يَضْرِبُ الْإِمَاءَ أَنْ يَتَقَنَّعْنَ ، يَقُولُ : لَا تَشَبَّهِينَ بِالْحَرَائِرِ .

220. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿUmar ibn al-Khaṭṭāb ؓ used to beat slave women[691] if they covered their heads, saying, ‘Do not try to emulate free women.’”[692]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، لَا نَرَى عَلَى الْأَمَةِ قِنَاعًا فِي صَلٰوةٍ وَلَاغَيْرِهَا ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللّٰهُ تَعَالَى .

Muḥammad said, “We adhere to this. We do not think[693] that slave women should wear head-covering in prayer or at any other time, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٢٢١– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الْمَرْأَةِ تَكُونُ فِي الصَّلٰوةِ فَتُرِيدُ الْحَاجَةَ : جَوَابُهَا أَنْ تُصَفِّقَ .

221. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a woman who is praying and wants some everyday need,[694] ‘Her answer is to clap her hands.’”[695]

قَالَ مُحَمَّدٌ : وَتَرْكُ ذٰلِكَ مِنْهَا أَحَبُّ إِلَيْنَا .

Muḥammad said, “And her leaving that out is preferable to us.”[696]

◆

بَابُ الصَّلٰوةِ فِي الْكُسُوفِ

65. PRAYER DURING THE SOLAR ECLIPSE[697]

٢٢٢– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : انْكَسَفَتِ الشَّمْسُ عَلَى عَهْدِ رَسُولِ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ يَوْمَ مَاتَ إِبْرَاهِيمُ بْنُ رَسُولِ اللّٰهِ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ فَقَالَ النَّاسُ : انْكَسَفَتِ الشَّمْسُ لِمَوْتِ إِبْرَاهِيمَ ، فَبَلَغَ ذٰلِكَ النَّبِيَّ صَلَّى اللّٰهُ عَلَيْهِ وَسَلَّمَ فَخَطَبَ النَّاسَ ، فَقَالَ : إِنَّ الشَّمْسَ وَالْقَمَرَ آيَتَانِ مِنْ آيَاتِ اللّٰهِ ، لَا يَنْكَسِفَانِ لِمَوْتِ أَحَدٍ (وَلَا لِحَيَاتِهِ) ثُمَّ صَلَّى رَكْعَتَيْنِ. ثُمَّ كَانَ الدُّعَاءُ حَتَّى انْجَلَتْ .

222. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘The sun was eclipsed during the lifetime of the Messenger of Allah ﷺ on the day in which Ibrāhīm the son of the Messenger of Allah ﷺ died, and so people said, “The sun is eclipsed for the death of Ibrāhīm.” That reached the Messenger of Allah ﷺ, so he delivered an address to the people[698] saying, “The sun and the moon are two of the signs[699] of Allah and they are not eclipsed for

the death of anyone (nor for anyone's life)." Then he prayed two *rakʿahs,*[700] and after that there was supplication until it was uncovered.'"[701]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَلَا نَرَى إِلَّا رَكْعَةً وَاحِدَةً فِي كُلِّ رَكْعَةٍ ، وَسَجْدَتَيْنِ عَلَى صَلَوةِ النَّاسِ فِي غَيْرِ ذَلِكَ. وَنَرَى أَنْ يُصَلُّوا جَمَاعَةً فِي كُسُوفِ الشَّمْسِ ، وَلَا يُصَلِّي جَمَاعَةً إِلَّا الْإِمَامُ الَّذِي يُصَلِّي بِهِمُ الْجُمُعَةَ ، فَأَمَّا أَنْ يُصَلِّيَ النَّاسُ فِي مَسَاجِدِهِمْ جَمَاعَةً فَلَا ، وَأَمَّا الْجَهْرُ بِالْقِرَاءَةِ فَلَمْ يَبْلُغْنَا أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ جَهَرَ بِالْقِرَاءَةِ فِيهَا ، وَبَلَغَنَا أَنَّ عَلِيَّ بْنَ أَبِي طَالِبٍ رَضِيَ اللَّهُ عَنْهُ جَهَرَ فِيهَا بِالْقِرَاءَةِ بِالْكُوفَةِ ، وَأَحَبُّ إِلَيْنَا أَنْ لَا يَجْهَرَ فِيهَا بِالْقِرَاءَةِ . وَأَمَّا كُسُوفُ الْقَمَرِ فَإِنَّمَا يُصَلِّي النَّاسُ وُحْدَانًا ، وَلَا يُصَلُّونَ جَمَاعَةً ، لَا الْإِمَامُ وَلَا غَيْرُهُ وَكَذَلِكَ الْأَفْزَاعُ كُلُّهَا . وَإِذَا انْكَسَفَتِ الشَّمْسُ فِي سَاعَةٍ لَا يُصَلَّى فِيهَا : عِنْدَ طُلُوعِ الشَّمْسِ ، وَنِصْفَ النَّهَارِ ، أَوْ بَعْدَ الْعَصْرِ ، فَلَا صَلَوةَ فِي تِلْكَ السَّاعَةِ ، وَلَكِنِ الدُّعَاءُ حَتَّى تَنْجَلِيَ ، أَوْ تَحِلَّ الصَّلَوةُ فَيُصَلِّي وَقَدْ بَقِيَ مِنَ الْكُسُوفِ شَيْءٌ .

Muḥammad said, "We adhere to this. We do not think that there is any more than one bowing[702] in each *rakʿah* and two prostrations as is usual in people's other prayers. We think that they should pray in a group for the solar eclipse,[703] but that no one should lead them in *jamāʿah* except for the imam[704] who leads them in prayer for the Jumuʿah. As for praying in mosques used for the daily prayers[705] [but not the Jumuʿah] in *jamāʿah*, then no. As for recitation aloud, it has not reached us that the Prophet ﷺ recited aloud[706] in it, but it has reached us that ʿAlī ibn Abī Ṭālib ؓ recited aloud in it at Kufa, but it is preferable to us[707] that one not recite aloud in it. As for lunar eclipses, people only pray individually[708] and they do not pray in a group, not with the imam nor with anyone else, and it is thus with all fearful events. When the sun is eclipsed at a time in which one does not pray, such as at sunrise, the middle of the day or after *ʿAṣr*, then there is no prayer[709] at these times, but supplication until it is uncovered[710] or until prayer become permissible, in which case one prays if some part of the eclipse still remains."

◆

بَابُ الْجَنَائِزِ وَغُسْلِ الْمَيِّتِ

66. FUNERALS[711] AND WASHING THE DEAD

٢٢٣– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : يُغْسَلُ الْمَيِّتُ وِتْرًا اِثْنَتَيْنِ بِمَاءٍ ، وَاحِدَةً بِالسِّدْرِ ، وَهِيَ الْوُسْطَى ، وَيُجْمَرُ وِتْرًا ، وَلَا يَكُونُ آخِرُ زَادِهِ إِلَى الْقَبْرِ نَارًا يُتْبَعُ بِهَا ، وَيَكُونُ كَفَنُهُ وِتْرًا .

223. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, 'The deceased is washed an odd number of times: twice with water and one time with lote-tree leaves,[712] and that should be in the middle. [The deceased's clothing and the bier] are fumigated with incense an odd number of times, and his last travelling provision for the grave should not be[713] that he is followed by fire. His shrouding should be done with an odd number[714] of cloths.'"[715]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ إِلَّا فِي خَصْلَةٍ وَاحِدَةٍ ، إِنْ شِئْتَ جَعَلْتَ كَفَنَهُ وِتْرًا ، وَإِنْ شِئْتَ شَفْعًا .

Muḥammad said, "We adhere to this except in one respect: if you wish, make the shrouding an odd number, or if you wish, make it an even number."

٢٢٤ – بَلَغَنَا عَنْ أَبِي بَكْرٍ الصِّدِّيقِ رَضِيَ اللَّهُ عَنْهُ أَنَّهُ قَالَ : اغْسِلُوا ثَوْبَيَّ هذَيْنِ ، وَكَفِّنُونِي فِيهِمَا ، فَهذَا شَفْعٌ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

224. “It has reached us that Abū Bakr aṣ-Ṣiddīq رضي الله عنه said, ‘Wash these two garments of mine and shroud me in them,’ and this was an even number,[716] and that is the verdict of Abū Ḥanīfah.”[717]

٢٢٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا عَاصِمُ بْنُ سُلَيْمَانَ عَنِ ابْنِ سِيرِينَ عَنِ ابْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا قَالَ : سَأَلَهُ عَنِ الْمِسْكِ يُجْعَلُ فِي حَنُوطِ الْمَيِّتِ قَالَ : أَوَ لَيْسَ من أَطْيَبِ طِيبِكُمْ ؟

225. Muḥammad said, “Abū Ḥanīfah informed us saying, “ʿĀṣim ibn Sulaymān narrated to us from Ibn Sīrīn from Ibn ʿUmar رضي الله عنهما that [Ibn Sīrīn] said, “[A man] asked him [Ibn ʿUmar][718] about musk being put in the mix of perfumes for the deceased, and he said, ‘Is it not one of the most fragrant of your perfumes?’”””[719]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ .

Muḥammad said, “We adhere to this.”[720]

٢٢٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : كَانَ يُكْرَهُ أَنْ يُجْعَلَ فِي حَنُوطِ الْمَيِّتِ زَعْفَرَانٌ ، أَوْ وَرْسٌ ، قَالَ : وَاجْعَلْ فِيهِ من الطِّيبِ مَا أَحْبَبْتَ .

226. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that he [Ḥammād] said, ‘It used to be deplored[721] to put saffron or *wars*[722] in the mix of perfumes for the deceased,[723] and he said, “Put whatever fragrance you wish in it.”’”[724]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ .

Muḥammad said, “We adhere to this.”

٢٢٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّ عَائِشَةَ أُمَّ الْمُؤْمِنِينَ رَضِيَ اللَّهُ عَنْهَا رَأَتْ مَيِّتًا يُسَرَّحُ رَأْسُهُ ، فَقَالَتْ : عَلامَ تَنُصُّونَ مَيِّتَكُمْ ؟

227. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿĀ’ishah, the Mother of the Mu’minūn ؓ, saw a corpse[725] with its hair combed[726] and she said, ‘Why do you take your deceased by the forelock?’”[727] [728]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، لَا نَرَى أَنْ يُسَرَّحَ رَأْسُ الْمَيِّتِ ، وَلَا يُؤْخَذَ مِن شَعْرِهِ ، وَلَا يُقَلَّمَ أَظْفَارُهُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. We do not think that the head of the deceased should be combed nor any of the hair cut, nor should the nails be clipped. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٢٢٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ : أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ كُفِّنَ فِي حُلَّةٍ يَمَانِيَّةٍ وَقَمِيصٍ .

228. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that the Prophet ﷺ was shrouded in a Yemeni garment and shirt.”[729]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، نَرَى كَفَنَ الرَّجُلِ ثَلَاثَةَ أَثْوَابٍ، وَالثَّوْبَانِ يُجْزِئَانِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. We think that a man should be shrouded in three cloths but two are sufficient. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ غُسْلِ الْمَرْأَةِ وَكَفْنِهَا

67. WASHING A [DECEASED] WOMAN AND SHROUDING HER

٢٢٩– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الْمَرْأَةِ تَمُوتُ مَعَ الرِّجَالِ، قَالَ: يُغَسِّلُهَا زَوْجُهَا ، وَكَذَلِكَ إِذَا مَاتَ الرَّجُلُ مَعَ النِّسَاءِ غَسَّلَتْهُ امْرَأَتُهُ . قَالَ أَبُوحَنِيفَةَ : لَا يَجُوزُ أَنْ يُغَسِّلَ الرَّجُلُ امْرَأَتَهُ .

229. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a woman who dies among a group of men,[730] ‘Her husband should wash her,[731] and similarly if a man dies among a group of women, his wife should wash him.’[732] Abū Ḥanīfah said, ‘It is not permitted for a man to wash his deceased wife.’”[733] [734]

قَالَ مُحَمَّدٌ : وبِقَوْلِ أَبِي حَنِيفَةَ نَأْخُذُ . إِنَّ الرَّجُلَ لَا عِدَّةَ عَلَيْهِ ، وَكَيْفَ يُغَسِّلُ امْرَأَتَهُ وَهُوَ يَحِلُّ لَهُ أَنْ يَتَزَوَّجَ أُخْتَهَا ، وَيَتَزَوَّجَ ابْنَتَهَا إِنْ لَمْ يَكُنْ دَخَلَ بِأُمِّهَا .

Muḥammad said, “We adhere to the verdict of Abū Ḥanīfah; the man does not have to observe the *ʿiddah* period [on being widowed], so how could he wash his wife when it is permissible for him to marry her sister, or even to marry her daughter if he had not consummated the marriage with her mother?”

٢٣٠– بَلَغَنَا عَنْ عُمَرَ بْنِ الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ أَنَّهُ قَالَ : نَحْنُ كُنَّا أَحَقَّ بِهَا إِذَا كَانَتْ حَيَّةً . فَأَمَّا إِذَا مَاتَتْ فَأَنْتُمْ أَحَقُّ بِهَا .

230. “It has reached us that ʿUmar ibn al-Khaṭṭāb ﵁ said,[735] ‘We had more right to her when she was alive, but as for when she died, you have more right to her.’”[736]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ .

Muḥammad said, “We adhere to this.”

٢٣١- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي كَفَنِ الْمَرْأَةِ : إِنْ شِئْتَ ثَلَاثَةَ أَثْوَابٍ ، وَإِنْ شِئْتَ أَرْبَعًا ، وَإِنْ شِئْتَ شَفْعًا ، وَإِنْ شِئْتَ وِتْرًا .

231. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm concerning shrouding a woman, ‘If you wish, three pieces of cloth,[737] and if you wish, four. If you wish, an even number, and if you wish, an odd number.’”[738]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ الْغُسْلِ مِنْ غُسْلِ الْمَيِّتِ

68. TAKING A *GHUSL* BECAUSE OF HAVING WASHING SOMEONE DECEASED

٢٣٢- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الْاغْتِسَالِ مِنْ غُسْلِ الْمَيِّتِ قَالَ : كَانَ عَبْدُ اللَّهِ بْنُ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ يَقُولُ : إِنْ كَانَ صَاحِبُكُمْ نَجِسًا فَاغْتَسِلُوا مِنْهُ ، وَالْوُضُوءُ يُجْزِئُ .

232. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning the person who had washed a dead person himself taking a *ghusl*, ‘ʿAbdullāh ibn Masʿūd ؓ used to say, “If your [deceased] companion was impure,[739] then take a *ghusl* because of him, but *wuḍū’* is sufficient.”’”[740]

قَالَ مُحَمَّدٌ : وَإِنْ شَاءَ أَيْضًا لَمْ يَتَوَضَّأْ ، فَإِنْ كَانَ أَصَابَهُ شَيْءٌ مِّنَ الْمَاءِ الَّذِي غَسَلَ بِهِ الْمَيِّتَ غَسَلَه ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “If one wishes also, one need not do *wuḍū’*. If some of the water with which one washes the deceased falls on one, then one washes it off.[741] That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٢٣٣- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ : أَنَّ عَلِيَّ بْنَ أَبِي طَالِبٍ رَضِيَ اللَّهُ عَنْهُ كَانَ يَأْمُرُ بِالْغُسْلِ مِنْ غُسْلِ الْمَيِّتِ .

233. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿAlī ibn Abī Ṭālib ؓ used to tell someone who washed the dead to take a *ghusl*.’”[742]

قَالَ مُحَمَّدٌ : وَلَا نَرَاهُ أَمَرَ بِذَلِكَ لِأَنَّهُ رَآهُ وَاجِبًا .

Muḥammad said, “We don’t think he told them to do that because he thought it obligatory.”[743]

٢٣٤- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي رَجُلٍ تَحْضُرُهُ الْجَنَازَةُ وَهُوَ عَلَى غَيْرِ وُضُوءٍ ، قَالَ : يَتَيَمَّمُ بِالصَّعِيدِ ، ثُمَّ يُصَلِّي ، وَلَا تَفْعَلُ ذَلِكَ الْمَرْأَةُ إِذَا كَانَتْ حَائِضًا .

234. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who is present at a funeral without *wuḍū’*, ‘He should do *tayammum* with pure dust of the earth[744] and then pray, but a woman should not do that if she is in her period.’”[745] [746]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ حَمْلِ الْجَنَائِزِ

69. CARRYING THE BIER

٢٣٥ – مُحَمَّدٌ عَنْ أَبِي حَنِيفَةَ قَالَ : حَدَّثَنَا منصورُ بْنُ الْمُعْتَمِرِ عَنْ سَالِمِ بْنِ أَبِي الْجَعْدِ عَنْ عُبَيْدِ بْنِ نُسْطَاسٍ عَنْ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ قَالَ : إِنَّ مِنَ السُّنَّةِ حَمْلَ الْجَنَازَةِ بِجَوَانِبِ السَّرِيرِ الْأَرْبَعَةِ ، فَمَا زِدْتَ عَلَى ذَلِكَ فَهُوَ نَافِلَةٌ .

235. Muḥammad from Abū Ḥanīfah who said, “Manṣūr ibn al-Muʿtamir narrated to us from Sālim ibn Abī’l-Jaʿd from ʿUbayd ibn Nusṭās that ʿAbdullāh ibn Masʿūd ؓ said, ‘It is from the Sunnah[747] to carry the bier by the four[748] sides of the stretcher, and anything beyond that is a voluntary extra act.’”[749] [750]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، يَبْدَأُ الرَّجُلُ فَيَضَعُ يَمِينَ الْمَيِّتِ الْمُقَدَّمَ عَلَى يَمِينِهِ ، ثُمَّ يَضَعُ يَمِينَ الْمَيِّتِ الْمُؤَخَّرَ عَلَى يَمِينِهِ ، ثُمَّ يَعُودُ إِلَى الْمُقَدَّمِ الْأَيْسَرِ فَيَضَعُهُ عَلَى يَسَارِهِ ، ثُمَّ يَأْتِي الْمُؤَخَّرَ الْأَيْسَرَ فَيَضَعُهُ عَلَى يَسَارِهِ ، وَهَذَا قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. The man begins by placing the right fore part of the deceased to his right, and then he places the right rear part of the deceased to his right. Then he returns to the left fore part and places it to his left, and then comes to the left rear part and places it to his left, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

بَابُ الصَّلَوةِ عَلَى الْجَنَازَةِ

70. PRAYER OVER THE DECEASED

٢٣٦- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : لَا قِرَاءَةَ عَلَى الْجَنَائِزِ، وَلَا رُكُوعَ، وَلَا سُجُودَ، وَلَكِنْ يُسَلِّمُ عَنْ يَمِينِهِ وَشِمَالِهِ إِذَا فَرَغَ من التَّكْبِيرِ.

236. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘There is no recitation[751] in the funeral prayer, nor bowing nor prostration, but one should say the *salām* to the right and to the left when one has finished saying the *takbīr*.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٢٣٧- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : لَيْسَ فِي الصَّلَوةِ عَلَى الْمَيِّتِ شَيْءٌ مُوَقَّتٌ ، وَلَكِنْ تَبْدَأُ فَتَحْمَدُ اللَّهَ، وَتُصَلِّي عَلَى النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، وَ تَدْعُو اللَّهَ لِنَفْسِكَ وَلِلْمَيِّتِ بِمَا أَحْبَبْتَ.

237. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘There is nothing specific[752] to be said in the prayer over the dead, but begin[753] and praise Allah,[754] ask for blessings on the Prophet ﷺ[755] and make supplication[756] for yourself and for the deceased with whatever you wish.’”

٢٣٨ – قَالَ مُحَمَّدٌ : وأَخْبَرَنَا سُفْيَانُ الثَّوْرِيُّ عَنْ أَبِي هَاشِم عَنْ إِبْرَاهِيمَ النَّخَعِيِّ قَالَ : الأُولَى الثَّنَاءُ عَلَى اللَّهِ ، وَالثَّانِيَةُ صَلَوةٌ عَلَى النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ، وَالثَّالِثَةُ دُعَاءٌ لِلْمَيِّتِ ، وَالرَّابِعَةُ سَلَامٌ تُسَلِّمُ .

238. Muḥammad said, “Sufyān ath-Thawrī informed us from Abū Hāshim[757] that Ibrāhīm an-Nakhaʿī said, ‘The first thing [after the first *takbīr*] is praise of Allah, the second [after the second *takbīr*] is asking for blessings on the Prophet ﷺ, the third [after the third *takbīr*] is supplication for the deceased, and the fourth [after the fourth *takbīr*] is the *salām* which you say.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٢٣٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الصَّلَوةِ عَلَى الْجَنَائِزِ قَالَ : يُصَلِّي عَلَيْهَا أَئِمَّةُ الْمَسَاجِدِ . وَقَالَ إِبْرَاهِيمُ : تَرْضَوْنَ بِهِمْ فِي صَلَوَاتِكُمُ الْمَكْتُوبَاتِ ، وَلَا تَرْضَوْنَ بِهِمْ عَلَي الْمَوْتَى؟

239. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning prayer over the dead, ‘The imams of the mosques[758] pray over them.’ Ibrahim said, ‘You are content with them[759] for your obligatory prayers and you are not content with them for your dead?’”[760]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، يَنْبَغِي لِلْوَلِيِّ أَنْ يُقَدِّمَ إِمَامَ الْمَسْجِدِ ، وَلَا يُجْبَرُ عَلَى ذَلِكَ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. The legal guardian[761] ought to make the imam of the mosque step forward [to lead the prayer], but he is not compelled to do that.[762] That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٢٤٠- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ : أَنَّ النَّاسَ كَانُوا يُصَلُّونَ عَلَى الْجَنَائِزِ خَمْسًا ، وَسِتًّا ، وَأَرْبَعًا ، حَتَّى قُبِضَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ، ثُمَّ كَبَّرُوا بَعْدَ ذَلِكَ فِي وِلَايَةِ أَبِي بَكْرٍ حَتَّى قُبِضَ أَبُوبَكْرٍ رَضِيَ اللَّهُ تَعَالَى عَنْهُ ، ثُمَّ وُلِّيَ عُمَرُ بْنُ الْخَطَّابِ رَضِيَ اللَّهُ تَعَالَى عَنْهُ ، فَفَعَلُوا ذَلِكَ فِي وِلَايَتِهِ ، فَلَمَّا رَآى ذَلِكَ عُمَرُ بْنُ الْخَطَّابِ رَضِيَ اللَّهُ تَعَالَى عَنْهُ قَالَ : إِنَّكُمْ مَعْشَرَ أَصْحَابِ مُحَمَّدٍ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ، مَتَى مَا تَخْتَلِفُونَ يَخْتَلِفُ مَنْ بَعْدَكُمْ ، وَالنَّاسُ حَدِيثُ عَهْدٍ بِالْجَاهِلِيَّةِ ، فَأَجْمِعُوا عَلَى شَيْءٍ يَجْتَمِعُ بِهِ عَلَيْهِ مَنْ بَعْدَكُمْ ، فَأَجْمَعَ رَأْيُ أَصْحَابِ مُحَمَّدٍ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنْ يَنْظُرُوا آخِرَ جَنَازَةٍ كَبَّرَ عَلَيْهَا النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ حِينَ قُبِضَ ، فَيَأْخُذُونَ بِهِ فَيَرْفُضُونَ بِهِ مَا سِوَى ذَلِكَ فَنَظَرُوا ، فَوَجَدُوا آخِرَ جَنَازَةٍ كَبَّرَ عَلَيْهَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَرْبَعًا .

240. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm, ‘They used[763] to say *takbīr* over the dead five, six[764] and four times until the Prophet ﷺ died. Then they continued like that under the governance of Abū Bakr until Abū Bakr ﵁ died. Then ʿUmar ibn al-Khaṭṭāb ﵁ was appointed and they did that during his governance. When ʿUmar ibn al-Khaṭṭāb ﵁ saw that,[765] he said, “Assembly of the Companions of Muḥammad ﷺ if you differ, those who come after you will differ, and people have only newly come out of ignorance,[766] so agree upon something which those who come after you can agree upon.” So the Companions of Muḥammad ﷺ agreed that they should look at the very last funeral[767] over which the Prophet ﷺ had said *takbīr* at around the time he died and they would adhere to that and reject everything else. So they investigated that and discovered that in the last funeral

over which the Messenger of Allah ﷺ had said *takbīr*, he had done so four times.'"[768]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

٢٤١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ: حَدَّثَنَا الْهَيْثَمُ عَنْ أَبِي يَحْيَى عُمَيْرِ بْنِ سَعِيدٍ النَّخَعِيِّ عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ رَضِيَ اللَّهُ تَعَالَى عَنْهُ ، أَنَّهُ صَلَّى عَلَى يَزِيدَ بْنِ الْمُكَفَّفِ ، فَكَبَّرَ أَرْبَعَ تَكْبِيرَاتٍ ، وَهُوَ آخِرُ شَيْءٍ كَبَّرَهُ عَلِيٌّ رَضِيَ اللَّهُ عَنْهُ عَلَى الْجَنَائِزِ .

241. Muḥammad said, "Abū Ḥanīfah informed us saying, 'Al-Haytham narrated to us from Abū Yaḥyā ʿUmayr ibn Saʿīd an-Nakhaʿī that ʿAlī ibn Abī Ṭālib ﵁ led the prayer over Yazīd ibn al-Mukaffif, and that he said *takbīr* four times, and that it was the last time that ʿAlī ﵁ said *takbīr* over someone deceased.'"[769]

٢٤٢– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا سَعِيدُ بْنُ الْمَرْزُبَانِ عَنْ عَبْدِ اللَّهِ بْنِ أَبِي أَوْفَى رَضِيَ اللَّهُ تَعَالَى عَنْهُ أَنَّهُ كَبَّرَ عَلَى ابْنَةٍ لَهُ أَرْبَعًا .

242. Muḥammad said, "Abū Ḥanīfah informed us saying, 'Saʿīd ibn al-Marzubān narrated to us that ʿAbdullāh ibn Abī Awfā ﵁ said *takbīr* four times over a daughter of his.'"

بَابُ إِدْخَالِ الْمَيِّتِ الْقَبْرَ

71. ENTERING THE DECEASED INTO THE GRAVE

٢٤٣- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ قَالَ : سَأَلْتُ إِبْرَاهِيمَ من أَيْنَ يُدْخَل الْمَيِّتُ فِي الْقَبْرِ؟ قَالَ : مِمَّا يَلِي الْقِبْلَةَ مِنْ حَيْثُ يُصَلَّى عَلَيْهِ ، قَالَ إِبْرَاهِيمُ : وَحَدَّثَنِي مَنْ رَآى أَهْلَ الْمَدِينَةِ يُدْخِلُونَ مَوْتَاهُمْ فِي الزَّمَنِ الْأَوَّلِ من قِبَلِ الْقِبْلَةِ ، وَ إِنَّ السَّلَّ شَيْءٌ صَنَعَهُ أَهْلُ الْمَدِينَةِ بَعْدَ ذَلِكَ .

243. Muḥammad said, "Abū Ḥanīfah informed us that Ḥammād said, 'I asked Ibrāhīm, "From where does one enter the deceased into the grave?" He said, "The side of the *qiblah*[770] from where one prays over him."'"[771] Ibrāhīm said, "Someone narrated to me who had seen the People of Madīnah entering their dead in the earliest epoch from the direction of the *qiblah* and that 'drawing in'[772] is something which the People of Madīnah did[773] after that."'"[774]

قَالَ مُحَمَّدٌ : يُدْخَلُ من قِبَلِ الْقِبْلَةِ ، وَلَا تَسُلُّهُ سَلًّا مِنْ قِبَلِ الرِّجْلَيْنِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "One enters [the deceased] from the direction of the *qiblah* and one does not draw him forth from the direction of the legs. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

٢٤٤- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : يَدْخُلُ الْقَبْرَ إِنْ شَاءَ شَفْعاً ، وَإِنْ شَاءَ وِتْرًا ، كُلُّ ذَلِكَ حَسَنٌ .

244. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, 'If they wish, those who enter the grave [with the

corpse to bury it] can be an even number[775] or, if they wish, an odd number. All of that is good.'"

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

بَابُ الصَّلٰوةِ عَلَى جَنَائِزِ الرِّجَالِ وَالنِّسَاءِ

72. THE PRAYER OVER DECEASED MEN AND WOMEN

٢٤٥– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الْجَنَائِزِ إِذَا اجْتَمَعَتْ قَالَ : تُصَفُّ صَفًّا ، بَعْضُهَا أَمَامَ بَعْضٍ ، وَتَصُفُّهَا جَمِيعًا يَقُومُ الْإِمَامُ وَسْطَهَا ، فَإِذَا كَانُوا رِجَالًا وَنِسَاءً جَعَلَ الرِّجَالَ هُمْ يَلُونَ الْإِمَامَ ، وَالنِّسَاءَ أَمَامَ ذَلِكَ يَلِينَ الْقِبْلَةَ، كَمَا إِنَّ الرِّجَالَ يَلُونَ الْإِمَامَ إِذَا كَانُوا فِي الصَّلٰوةِ وَالنِّسَاءُ مِنْ وَرَائِهِمْ .

245. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a number of funerals that occur at the same time, 'They [the bodies] are laid in a row, one in front of the other,[776] and they are all laid in a single row[777] with the imam standing in the middle of it. If there are both men and women, the men are placed nearer to the imam and women in front of that, closer to the *qiblah*, just in the same way as the men are nearer to the imam in the prayer and the women are behind them.'"[778]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٢٤٦- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ سُلَيْمَانَ الشَّيْبَانِيِّ عَنْ عَامِرٍ الشَّعْبِيِّ قَالَ : صَلَّى ابْنُ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا عَلَى أُمِّ كُلْثُومَ بِنْتِ عَلِيٍّ رَضِيَ اللَّهُ عَنْهُمَا وَزَيْدِ بْنِ عُمَرَ ابْنِهَا فَجَعَلَ أُمَّ كُلْثُومَ تِلْقَاءَ الْقِبْلَةِ ، وَجَعَلَ زَيْدًا مِمَّا يَلِي الْإِمَامَ .

246. Muḥammad said, “Abū Ḥanīfah informed us from Sulaymān ash-Shaybānī that ʿĀmir ash-Shaʿbī said, ‘Ibn ʿUmar ﵁ prayed over Umm Kulthūm, the daughter of ʿAlī ﵁, and her son, Zayd ibn ʿUmar, and he placed Umm Kulthūm towards the *qiblah* and Zayd nearer to the imam.’”[779]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٢٤٧- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا عِيسَى بْنُ عَبْدِاللَّهِ بْنِ مَوْهَبٍ قَالَ : رَأَيْتُ أَبَا هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ يُصَلِّي عَلَى جَنَائِزِ الرِّجَالِ وَالنِّسَاءِ ، فَجَعَلَ الرِّجَالَ يَلُونَهُ ، وَالنِّسَاءَ يَلِينَ الْقِبْلَةَ .

247. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘ʿIsa ibn ʿAbdullāh ibn Mawhab narrated to us saying, “I saw Abū Hurayrah ﵁ praying the funeral prayer over men and women, and he placed the men closer to himself and the women closer to the *qiblah*.”’”

٢٤٨- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا الْهَيْثَمُ عَنْ سَعِيدِ بْنِ عَمْرٍو عَنِ ابْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا أَنَّهُ صَلَّى عَلَى امْرَأَةٍ وَلَدَتْ مِنَ الزِّنَا مَاتَتْ هِيَ وَ ابْنُهَا ، فَصَلَّى عَلَيْهَا ابْنُ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا .

248. Muḥammad said, "Abū Ḥanīfah informed us saying, 'Al-Haytham narrated to us from Saʿīd ibn ʿAmr that Ibn ʿUmar ﵄ prayed over a woman who had given birth to an illegitimate child and both of them had died, and so Ibn ʿUmar ﵄ prayed over her.'"[780]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، لَا يُتْرَكُ أَحَدٌ من أَهْلِ الْقِبْلَةِ لَا يُصَلَّى عَلَيْهِ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, "We adhere to this. None of the people of the *qiblah* should be left without being prayed over, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

◆

بَابُ الْمَشْيِ مَعَ الْجِنَازَةِ

73. WALKING WITH THE FUNERAL

٢٤٩- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ قَالَ : رَأَيْتُ إِبْرَاهِيمَ يَتَقَدَّمُ الْجِنَازَةَ، وَ يَتَبَاعَدُ عَنْهَا فِي غَيْرِ أَنْ يَتَوَارَى عَنْهَا .

249. Muḥammad said, "Abū Ḥanīfah informed us that Ḥammād said, 'I saw Ibrāhīm going in front of[781] the funeral at some distance without disappearing from sight.'"[782] [783]

قَالَ مُحَمَّدٌ : لَا نَرَى بِتَقَدُّمِ الْجِنَازَةِ بَأْساً إِذَا كَانَ قَرِيبًا مِنْهَا ، وَالْمَشْيُ خَلْفَهَا أَفْضَلُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, “We see no harm[784] in going in front of the bier if one is close to it, but walking behind it is better,[785] and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٢٥٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : يُكْرَهُ أَنْ يَتَقَدَّمَ الرَّاكِبُ أَمَامَ الْجَنَازَةِ .

250. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘It is disapproved[786] for someone who is mounted to go ahead of the funeral.’”[787]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٢٥١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ قَالَ : سَأَلْتُ إِبْرَاهِيمَ عَنِ الْمَشْيِ أَمَامَ الْجَنَازَةِ ، قَالَ : امْشِ حَيْثُ شِئْتَ ، إِنَّمَا يُكْرَهُ أَنْ يَنْطَلِقَ الْقَوْمُ فَيَجْلِسُونَ عِنْدَ الْقَبْرِ وَيَتْرُكُونَ الْجَنَازَةَ .

251. Muḥammad said, “Abū Ḥanīfah informed us that Ḥammād said, ‘I asked Ibrāhīm about walking in front of the deceased, and he said, “Walk wherever you wish.[788] All that is disliked is that the people set off and sit at the grave abandoning the deceased.”’”[789]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٢٥٢- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ قَالَ: كُنْتُ أُجَالِسُ أَصْحَابَ عَبْدِ اللَّهِ (ابْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ) وَعَلْقَمَةَ، وَالأَسْوَدَ، وَغَيْرَهُمَا فَتَمُرُّ عَلَيْهِمُ الْجَنَازَةُ وَهُمْ مُحْتَبُونَ، فَمَا يَحُلُّ أَحَدُهُمْ حَبْوَتَهُ.

252. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us that Ibrāhīm said, “I would sit with the companions of ʿAbdullāh (ibn Masʿūd ﵁): ʿAlqamah, al-Aswad and others, and a funeral would pass by them while they were sitting on their haunches with a cloth bound around their legs and their backs,[790] and none of them would loosen his cloth [and stand up].”’”[791]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ، لا نَرَى أَنْ يُقَامَ لِلْجِنَازَةِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, “We adhere to this. We do not think that anyone should stand up for a bier, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٢٥٣- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ قَالَ : سَأَلْتُ إِبْرَاهِيمَ مَتَى يَجْلِسُ الْقَوْمُ؟ قَالَ : إِذَا وُضِعَتِ الْجَنَازَةُ عَنْ مَنَاكِبِ الرِّجَالِ، وَ قَالَ : أَرَأَيْتَ لَوِ انْتَهَوْا إِلَى الْقَبْرِ وَلَمْ يُضْرَبْ فِيهِ بِفَاسٍ أَكُنْتَ قَائِمًا حَتَّى يُحْفَرَ الْقَبْرُ؟

253. Muḥammad said, “Abū Ḥanīfah informed us that Ḥammād said, ‘I asked Ibrāhīm, “When do the people sit down?” and he said, “When the deceased is taken down off the men’s shoulders.” He said, “What do you think if they reach the grave and no one has begun to use the pickaxe; would you stand until the grave is dug?”’”[792] [793]

قَالَ مُحَمَّدٌ : إِذَا وُضِعَتِ الْجَنَازَةُ عَلَى الْأَرْضِ فَلا بَأْسَ بِالْقُعُودِ ، وَيُكْرَهُ قَبْلَ ذَلِكَ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, “When the bier is placed on the ground there is no harm in sitting down,[794] but before that[795] it is disliked, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٢٥٤- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ : أَنَّ الْحَارِثَ بْنَ أَبِي رَبِيعَةَ مَاتَتْ أُمُّهُ النَّصْرَانِيَّةُ ، فَتَبِعَ جِنَازَتَهَا فِي رَهْطٍ مِنْ أَصْحَابِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ .

254. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that al-Ḥārith ibn Abī Rabīʿah’s Christian mother died and he followed her bier with a group of the Companions of the Prophet ﷺ.”[796]

قَالَ مُحَمَّدٌ : لا نَرَى بِاتِّبَاعِهَا بَأْساً ؛ إِلاَّ أَنَّهُ يَتَنَحَّى نَاحِيَةً عَنِ الْجِنَازَةِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We see no harm[797] in following her but he should remain aside at a distance[798] from the bier, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

بَابُ تَسْنِيمِ الْقُبُورِ وَتَجْصِيصِهَا

74. BUILDING A MOUND[799] OVER THE GRAVE AND PLASTERING IT WITH GYPSUM

٢٥٥- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : أَخْبَرَنِي مَنْ رَأَى قَبْرَ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَقَبْرَ أَبِي بَكْرٍ رَضِيَ اللَّهُ عَنْهُ ، وَقَبْرَ عُمَرَ رَضِيَ اللَّهُ عَنْهُ مُسَنَّمَةً نَاشِزَةً مِنَ الأَرْضِ ، عَلَيْهَا فِلَقٌ مِنْ مَدَرٍ أَبْيَضَ .

255. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, 'Someone informed me that they had seen the grave of the Prophet ﷺ, the grave of Abū Bakr ؓ, and the grave of ʿUmar ؓ with mounds on top of them protruding prominently from the ground, and on them pieces[800] of white clay.'"[801]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، يُسَنَّمُ الْقَبْرُ تَسْنِيماً ، وَ لا يُرَبَّعُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this, the grave is marked with a prominent mound, but it is not to be made in the form of a square,[802] and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

٢٥٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : كَانَ يُقَالُ : ارْفَعُوا الْقَبْرَ حَتَّى يُعْرَفَ أَنَّهُ قَبْرٌ فَلا يُوطَأُ .

256. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, 'It used to be said[803] that one should raise the grave so that it will be recognised as a grave and not stepped on.'"[804]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَلَا نَرَى أَنْ يُزَادَ عَلَى مَا خَرَجَ مِنْهُ ، وَنَكْرَهُ أَنْ يُجَصَّصَ ، أَوْ يُطَيَّنَ ، أَوْ يُجْعَلَ عِنْدَهُ مَسْجِدًا أَوْ عَلَمًا ، أَوْ يُكْتَبَ عَلَيْهِ ، وَيُكْرَهُ الْآجُرُّ أَنْ يُبْنَى بِهِ ، أَوْ يُدْخَلَ الْقَبْرُ ، وَلَا نَرَى بِرَشِّ الْمَاءِ عَلَيْهِ بَأْساً ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this, but we do not think that anything should be added[805] to what comes out of it [the soil which comes out of the grave], and we dislike it being plastered with gypsum or with clay, or that a mosque[806] or any marker should be built by it or that anything should be written on it. It is disliked that it should be built with baked bricks[807] or that they should be put in the interior of the grave. We see no harm[808] in sprinkling water on it. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٢٥٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا شَيْخٌ لَنَا يَرْفَعُهُ إِلَى النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنَّهُ نَهَى عَنْ تَرْبِيعِ الْقُبُورِ وَتَجْصِيصِهَا .

257. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘A Shaykh of ours[809] narrated to us, transmitting it [as a *marfūʿ* hadith] from the Prophet ﷺ, that he prohibited building the grave with four sides and plastering it with gypsum.’”[810]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٢٥٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : كَانَ عَبْدُ اللَّهِ بْنُ مَسْعُودٍ رَضِيَ اللَّهُ تَعَالَى عَنْهُ يَقُولُ : لَأَنْ أَطَأَ عَلَى جَمْرَةٍ أَحَبُّ إِلَيَّ مِنْ أَنْ أَطَأَ عَلَى قَبْرٍ مُتَعَمِّداً .

258. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘ʿAbdullāh ibn Masʿūd ﵁ used to say, “I would rather step on[811] a live coal than deliberately step on a grave.”’”[812]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، يُكْرَهُ الْوَطْأُ عَلَى الْقُبُورِ مُتَعَمِّدًا ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. It is disapproved that one should deliberately step on graves, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ مَنْ أَوْلَى بِالصَّلاةِ عَلَى الْجَنَازَةِ

75. WHO HAS MORE RIGHT TO LEAD THE PRAYER OVER THE DECEASED

٢٥٩ – و٢٦٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ ، وَعَنْ عَوْنِ بْنِ عَبْدِ اللَّهِ عَنِ الشَّعْبِيِّ أَنَّهُمَا قَالَا : الزَّوْجُ أَحَقُّ بِالصَّلَوةِ عَلَى الْمَيِّتِ مِنَ الْأَبِ .

259 & 260. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm, and also from ʿAwn ibn ʿAbdullāh[813] from ash-Shaʿbī that they both [Ibrāhīm and ash-Shaʿbī] said, ‘The husband has more right to lead the prayer over the deceased [wife] than the father.’”[814]

٢٦١ – قَالَ أَبُو حَنِيفَةَ أَخْبَرَنِي رَجُلٌ عَنِ الْحَسَنِ عَنْ عُمَرَ بْنِ الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ أَنَّهُ قَالَ : الْأَبُ أَحَقُّ بِالصَّلَوةِ عَلَى الْمَيِّتِ مِنَ الزَّوْجِ .

261. Abū Ḥanīfah said, “A man informed me from al-Ḥasan that ʿUmar ibn al-Khaṭṭāb ﷺ said, ‘The father has more right[815] to lead the prayer over the deceased than the husband.’”[816]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ وَبِهِ كَانَ يَأْخُذُ أَبُو حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this, and Abū Ḥanīfah, may Allah, exalted is He, have mercy on him, used to adhere to it.”

◆

بَابُ اسْتِهْلَالِ الصَّبِيِّ وَالصَّلَوةِ عَلَيْهِ

76. THE NEWBORN BABY CRYING OUT AT BIRTH, AND SAYING THE PRAYER OVER IT [IF IT DIES]

٢٦٢– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّهُ قَالَ فِي السِّقْطِ : إِذَا اسْتَهَلَّ صُلِّيَ عَلَيْهِ، وَ وُرِّثَ ، وَإِذَا لَمْ يَسْتَهِلَّ لَمْ يُصَلَّ عَلَيْهِ، وَلَمْ يُوَرَّثْ.

262. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning the miscarried foetus,[817] ‘If it had cried out,[818] then the prayer is prayed over it, and it inherits,[819] but if it had not cried out then the prayer is not prayed over it and it does not inherit.’”[820]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، والْاِسْتِهْلَالُ أَنْ يَقَعَ حَيّاً ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, “We adhere to this, and its crying out at birth is [proof of] its emerging alive,[821] and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٢٦٣– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الصَّبِيِّ يَقَعُ مَيِّتًا وَقَدْ كَمُلَ خَلْقُهُ قَالَ : لَا يَحْجُبُ ، وَلَا يَرِثُ ، وَلَا يُصَلَّى عَلَيْهِ.

263. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a completely formed but stillborn child, ‘It does not prevent [someone else inheriting],[822] it does not inherit, and the prayer is not said over it.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ، وَلَكِنَّهُ يُغَسَّلُ وَيُكَفَّنُ وَ يُدْفَنُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, “We adhere to this, but it is given a *ghusl*, shrouded and buried, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ غُسْلِ الشَّهِيدِ

77. THE *GHUSL* OF THE *SHAHĪD*[823]

٢٦٤– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يُسْتَشْهَدُ ، فَيَمُوتُ مَكَانَهُ الَّذِي قُتِلَ فِيهِ قَالَ : يُنْزَعُ عَنْهُ خُفَّاهُ وَقَلَنْسُوَتُهُ ، وَيُكَفَّنُ فِي ثِيَابِهِ الَّتِي كَانَتْ عَلَيْهِ .

264. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who dies as a *shahīd* and who dies at the place where[824] he received the mortal blow, ‘His leather socks[825] and his cap are taken off him and he is buried in the clothes which he had on.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَيُنْزَعُ عَنْهُ أَيْضًا كُلُّ جِلْدٍ وَسِلَاحٍ ، وَيَزِيدُونَ مَا أَحَبُّوا مِنَ الْأَكْفَانِ ، وَلَا يُغَسَّلُ ، وَلَكِنْ يُصَلَّى عَلَيْهِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. They also take off him all leather and weapons, and they can add[826] whatever shrouding they wish. He is not to be given a *ghusl* but the prayer is to be said over him, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٢٦٥– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يُقْتَلُ فِي الْمَعْرَكَةِ قَالَ : لَا يُغَسَّلُ ، وَالَّذِي يُضْرَبُ ، فَيَتَحَامَلُ إِلَى أَهْلِهِ قَالَ : يُغَسَّلُ .

265. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who is killed on the battlefield, ‘He is not to be given a *ghusl*,’[827] but about the person who was struck and carried [alive] to his family [among whom he later died] he [Ḥammād] said, ‘He is given a *ghusl*.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَإِذَا حُمِلَ أَيْضًا عَلَى أَيْدِي الرِّجَالِ حَيّاً فَمَاتَ غُسِلَ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. And also if he is carried alive on men’s hands and then dies, he is to be given a *ghusl*. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٢٦٦- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ: حَدَّثَنَا سَالِمٌ الْأَفْطَسُ قَالَ : مَا مِنْ نَبِيٍّ إِلَّا وَ يَهْرَبُ مِنْ قَوْمِهِ إِلَى الْكَعْبَةِ يَعْبُدُ رَبَّهَا ، وَإِنَّ حَوْلَهَا لَقَبْرَ ثَلَاثِ مِائَةِ نَبِيٍّ .

266. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Sālim al-Afṭas narrated to us saying, “There is no prophet who has not fled from his people to the Kaʿbah to worship its Lord, and around it there are the graves[828] of three hundred prophets.”’”[829]

٢٦٧- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا عَطَاءُ بْنُ السَّائِبِ قَالَ : قَبْرُ هُودٍ ، وَصَالِحٍ وَ شُعَيْبٍ (عَلَيْهِمُ السَّلَامُ) فِي الْمَسْجِدِ الْحَرَامِ .

267. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘ʿAṭā’ ibn as-Sā’ib[830] narrated to us saying, “The graves of Hūd, Ṣāliḥ and Shuʿayb, peace be upon them, are in the Masjid al-Ḥarām.”’”

٢٦٨- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ: حَدَّثَنَا زِيَادُ بْنُ عِلَاقَةَ عَنْ عَبْدِ اللَّهِ بْنِ الْحَارِثِ، عَنْ أَبِي مُوسَى الْأَشْعَرِيِّ رَضِيَ اللَّهُ عَنْهُ قَالَ : قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: فَنَاءُ أُمَّتِي بِالطَّعْنِ وَالطَّاعُونِ، قِيلَ يَا رَسُولَ اللَّهِ! الطَّعْنُ قَدْ عَرَفْنَاهُ، فَمَا الطَّاعُونُ؟ قَالَ : وَخْزُ أَعْدَائِكُمْ مِن الْجِنِّ ، وَفِي كُلٍّ شُهَدَاءُ .

268. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ziyād ibn ʿIlāqah narrated to us from ʿAbdullāh ibn al-Ḥārith that Abū Mūsā al-Ashʿarī ؓ said, “The Messenger of Allah ﷺ said, ‘The perishing

of my community[831] will be by means of the thrusts of spears and plague.' Someone said, 'Messenger of Allah, we know the thrusting of spears, but what is the plague?' He said, 'The stabbing[832] of your enemies among the jinn. Among both cases there will be *shahīds*.'""""[833]

◆

بَابُ زِيَارَةِ الْقُبُورِ

78. VISITING GRAVES

٢٦٩– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ: حَدَّثَنَا عَلْقَمَةُ بْنُ مَرْثَدٍ عَنِ ابْنِ بُرَيْدَةَ الْأَسْلَمِيِّ عَنْ أَبِيهِ رَضِيَ اللَّهُ عَنْهُ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنَّهُ قَالَ: نَهَيْنَاكُمْ عَنْ زِيَارَةِ الْقُبُورِ ، فَزُورُوهَا ، وَلَا تَقُولُوا هُجْرًا فَقَدْ أُذِنَ لِمُحَمَّدٍ فِي زِيَارَةِ قَبْرِ أُمِّهِ ، وَعَنْ لَحْمِ الْأَضَاحِي أَنْ تُمْسِكُوهُ فَوْقَ ثَلَاثَةِ أَيَّامٍ ، فَأَمْسِكُوهُ مَا بَدَأَ لَكُمْ ، وَتَزَوَّدُوا فَإِنَّا إِنَّمَا نَهَيْنَاكُمْ لِيَتَّسِعَ مُوسِعُكُمْ عَلَى فَقِيرِكُمْ ، وَعَنِ النَّبِيذِ فِي الدُّبَّاءِ ، وَالْحَنْتَمِ وَالْمُزَفَّتِ ، فَانْتَبِذُوا فِي كُلِّ ظَرْفٍ ، فَإِنَّ ظَرْفًا لَا يُحِلُّ شَيْئًا ، وَ لَا يُحَرِّمُهُ ، وَلَا تَشْرَبُوا الْمُسْكِرَ .

269. Muḥammad said, "Abū Ḥanīfah informed us saying, "ʿAlqamah ibn Marthad narrated to us from Ibn Buraydah al-Aslamī from his father [Buraydah] ؓ that the Prophet ﷺ said, "We forbade you to visit graves, but now visit[834] them and do not use bad language,[835] for permission has been granted to Muḥammad[836] to visit the grave of his mother. [We forbade you] to retain the meat of [ʿ*Īd*] sacrifices[837] for more than three days, but now retain as much as you wish and take provision from it, because we only forbade you so that those of you who are wealthy would be generous to those of you who are poor. [We forbade you to drink] pressed juice[838] which

had been left to stand [*nabīdh*] in gourds,[839] or in green glazed wine-jars and skins or vessels smeared with pitch, but now prepare pressed juice in any receptacle because a receptacle does not make anything *ḥalāl* or *ḥarām*. However, do not drink intoxicants.[840]”’”[841]

قَالَ مُحَمَّدٌ : وبِهذَا كُلِّهِ نَأْخُذُ ، لا بَأْسَ بِزِيَارَةِ الْقُبُورِ لِلدُّعاءِ لِلْمَيِّتِ ، وَلِذِكْرِ الآخِرَةِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to all of this. There is no harm in visiting graves for supplication for the dead and in order to remember the next life, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ قِرَاءَةِ الْقُرْآنِ

79. RECITATION OF THE QUR’ĀN

٢٧٠– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا يَحْيَى بْنُ عَمْرِو بْنِ سَلَمَةَ عَنْ أَبِيهِ عَنِ ابْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ قَالَ : مَنِ اقْتَرَأَ مِنكُمْ بِالثَّلاثِ الآيَاتِ اللاَّتِي فِي آخِرِ سُورَةِ الْبَقَرَةِ فِي لَيْلَةٍ فَقَدْ أَكْثَرَ وَ أَطَابَ .

270. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Yaḥyā ibn ʿAmr ibn Salamah narrated to us from his father that Ibn Masʿūd ؓ said, “Whoever of you recites the three *āyāt* which are at the end of Sūrat al-Baqarah[842] in a night[843] has done a lot and done well.”’”[844] [845]

٢٧١– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ: قَالَ عَبْدُ اللَّهِ بْنُ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ : لا تَهُذُّوا الْقُرْآنَ كَهَذِّ الشِّعْرِ ، وَلَا تَنْثُرُوهُ كَنَثْرِ الدَّقَلِ .

271. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘ʿAbdullāh ibn Masʿūd ﵁ said, “Do not read the Qur’ān rapidly[846] and uninterruptedly as one does with poetry, and do not scatter it like scattering poor quality dates.”’”[847] [848]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، يَنْبَغِي لِلْقَارِئِ أَنْ يَفْهَمَ مَا يَقْرَأُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. The reciter ought to understand what he is reciting, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٢٧٢– مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا عَاصِمُ بْنُ أَبِي النَّجُودِ عَنْ أَبِي الأَحْوَصِ عَنْ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ أَنَّهُ قَالَ : أَمَا إِنَّ بِكُلِّ حَرْفٍ يَتْلُوهُ تَالٍ عَشْرَ حَسَنَاتٍ ، أَمَا إِنِّي لَا أَقُولُ لَكُمْ: الم حَرْفٌ ، وَلَكِنْ أَلِفٌ وَلَامٌ وَمِيمٌ ثَلَاثُونَ حَسَنَةً .

272. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘ʿĀṣim ibn Abī’n-Najūd narrated to us from Abū’l-Aḥwaṣ that ʿAbdullāh ibn Masʿūd ﵁, “Certainly, for every letter which the reciter recites, ten good actions [are recorded for him]. Certainly, I do not say to you that *Alif Lām Mīm* is a letter,[849] but rather that *Alif* and *Lām* and *Mīm* are thirty good actions [recorded for you].”’”[850]

٢٧٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ: لَا يَتَحَوَّلِ الرَّجُلُ مِن قِرَاءَةٍ إِلَى قِرَاءَةٍ. قَالَ أَبوحَنِيفَةَ : يَعْنِي حَرْفَ عَبْدِ اللَّهِ وَحَرْفَ زَيْدٍ وَغَيْرِه .

273. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘A man ought not to shift from one recitation[851] to another.’”[852]

Muḥammad said, “Meaning the mode of recitation of ʿAbdullāh[853] and the mode of recitation of Zayd[854] and others.”

٢٧٤– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ : أَنَّ ابْنَ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ كَانَ يُقْرِئُ رَجُلاً أَعْجَمِيّاً : ﴿إِنَّ شَجَرَةَ الزَّقُّومِ طَعَامُ الأَثِيمِ﴾ ، فَلَمَّا أَنْ أَعْيَاهُ قَالَ لَهُ عَبْدُ اللَّهِ : أَمَا تُحْسِنُ أَنْ تَقُولَ : طَعَامُ الْفَاجِرِ؟ وَقَالَ عَبْدُ اللَّهِ بْنُ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ : أَنَّ الْخَطَأَ فِي كِتَابِ اللَّهِ لَيْسَ أَنْ تَقْرَأَ بَعْضَهُ فِي بَعْضٍ ، تَقُولُ : الْغَفُورُ الرَّحِيمُ ، وَالْغَفُورُ الْحَكِيمُ ، وَالْعَزِيزُ الْحَكِيمُ ، وَالْعَزِيزُ الرَّحِيمُ وَكَذَلِكَ اللَّهُ تَبَارَكَ وَتَعَالَى ، وَلَكِنَّ الْخَطَأَ أَنْ تَقْرَأَ آيَةَ الْعَذَابِ آيَةَ الرَّحْمَةِ ، وَآيَةَ الرَّحْمَةِ آيَةَ الْعَذَابِ ، وَأَنْ تَزِيدَ فِي كِتَابِ اللَّهِ مَا لَيْسَ فِيهِ .

274. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that Ibn Masʿūd ؓ would teach a non-Arab man,[855] '*The Tree of az-Zaqqūm*[856] *is the food of the wicked (al-athīm)*,' (Sūrat ad-Dukhān: 41) but if he was incapable of reciting it, ʿAbdullāh would say to him, 'Can you not recite well,[857] "*…the food of the fājir (a synonym also meaning wicked)*?"' ʿAbdullāh ibn Masʿūd ؓ said, 'Making a mistake in the Book of Allah is not when you recite some of it in place of another,[858] saying [for example], "*The All-Forgiving*[859] *the All-Merciful* or *the All-Forgiving the All-Wise*, and *the All-Mighty the All-Wise* or *the All-Mighty the All-Merciful*," for Allah, blessed is He and exalted, is such.[860] But what is a mistake is that you recite an *āyah* concerning punishment as an *āyah* of mercy, or an *āyah* of mercy as an *āyah* of punishment, or that you add to the Book of Allah what is not in it.'"[861]

قَالَ مُحَمَّدٌ : وَبِهَذَا كُلِّهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ .

Muḥammad said, "We adhere to all of this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

٢٧٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ عَنْ عُمَرَ بْنِ
الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ أَنَّهُ كَانَ يَقُولُ : حَسِّنُوا أَصْوَاتَكُمْ بِالْقُرْآنِ .

275. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm that ʿUmar ibn al-Khaṭṭāb ﷺ used to say, “Beautify[862] your voices with the Qur’ān.”’”[863]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَ الْقِرَاءَةُ عِنْدَنَا كَمَا رُوِيَ عَنْ طَاوُسٍ قَالَ : إِنَّ مِن أَحْسَنِ
النَّاسِ قِرَاءَةً الَّذِي إِذَا سَمِعْتَهُ يَقْرَأُ حَسِبْتَهُ أَنَّهُ يَخْشَى اللَّهَ .

Muḥammad said, “We adhere to this. Recitation in our view is as Ṭāwus narrated. He said, ‘Among the best of people in recitation is the person who when you hear him recite, you think that he fears Allah.’”

٢٧٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّهُ قَالَ : كَانَ يُقَالُ :
إِنَّ اللَّهَ تَبَارَكَ وَتَعَالَى لَمْ يَأْذَنْ لِشَيْءٍ إِذْنَهُ لِلصَّوْتِ الْحَسَنِ بِالْقُرْآنِ .

276. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘It used to be said,[864] “Allah, blessed is He and exalted, does not listen to anything as He listens to the Qur’ān [recited] with a beautiful voice.”’”[865]

◆

بَابُ الْقِرَاءَةِ فِي الْحَمَّامِ وَالْجُنُبِ

80. RECITATION OF THE QUR’ĀN IN THE PUBLIC BATHS, AND BY THE PERSON IN NEED OF A *GHUSL* BECAUSE OF SEXUAL RELATIONS

٢٧٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ وعَنْ سَعِيدِ بْنِ جُبَيْرٍ :
أَنَّ أَصْحَابَ مُحَمَّدٍ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ كَانَ يَقْرَأُ أَحَدُهُمْ جُزْأً من الْقُرْآنِ ؛ وَهُوَ عَلَى
غَيْرِ وُضُوءٍ .

277. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm and from Saʿīd ibn Jubayr[866] that any of the Companions[867] of Muḥammad ﷺ would recite their portion (*juz'*) of the Qur'ān while not in *wuḍū'*."[868]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، لَا نَرَى بِهِ بَأْساً ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this,[869] and we see no harm in it, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

٢٧٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا شُعْبَةُ بْنُ الْحَجَّاجِ عَنْ عَمْرِو بْنِ مُرَّةَ الْجَمَلِيِّ عَنْ عَبْدِ اللَّهِ بْنِ
سَلِمَةَ قَالَ : دَخَلْتُ أَنَا وَرَجُلٌ من بَنِي أَسَدٍ – أَحْسِبُ – عَلَى عَلِيِّ بْنِ أَبِي طَالِب
رَضِيَ اللَّهُ عَنْهُ ، فَأَرَادَ أَنْ يَبْعَثَنَا فِي حَاجَةٍ لَهُ ، فَقَالَ لَنَا : إِنَّكُمَا عِلْجَانِ، فَعَالِجَا عَنْ
دِينِكُمَا ، قَالَ :ثُمَّ دَخَلَ الْخَلَاءَ وَخَرَجَ ، فَأَخَذَ من الْمَاءِ شَيْئاً فَمَسَحَ وَجْهَهُ وكَفَّيْهِ ،ثُمَّ
رَجَعَ يَقْرَأُ الْقُرْآنَ، فَكَأَنَّا أَنْكَرْنَا ذَلِك ، فَقَالَ : كَانَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يُقْرِءُ
الْقُرْآنَ وَلَا يَحْجُزُه عَنْ ذَلِكَ، وَ رُبَّمَا قَالَ : لَا يَحْجُبُه عَنْ ذَلِك شَيْءٌ لَيْسَ الْجَنَابَةَ .

278. Muḥammad said, "Shuʿbah ibn al-Ḥajjāj informed us from ʿAmr ibn Murrah al-Jamalī that ʿAbdullāh ibn Salamah said, 'I and a man[870] from Banī Asad, I think,[871] went to visit ʿAlī ibn Abī Ṭālib ؓ. He wanted to send us on an errand for him, so he said to us, "You are two capable sturdy men, so strive[872] on behalf of your *dīn*."' He said, 'Then he went to the toilet and came back, took some water and wiped his face and hands, and then returned to reciting the Qur'ān. It was as if we disapproved of that and so he said, "The

Messenger of Allah ﷺ used to recite the Qur’ān and nothing would prevent him from doing that,” or he may have said, “nothing would bar[873] him from doing that except being in need of a *ghusl* because of sexual relations.”””[874]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، لَا نَرَى بَأْساً بِقِرَاءَةِ الْقُرْآنِ عَلَى كُلِّ حَالٍ إِلاَّ أَنْ يَكُونَ جُنُبًا ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and we see no harm in the recitation of the Qur’ān in any state whatsoever except when one is in need of a *ghusl* because of sexual relations, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٢٨٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ قَالَ : سَأَلْتُ إِبْرَاهِيمَ عَنِ الْقِرَاءَةِ فِي الْحَمَّامِ ، قَالَ : لَيْسَ لِذَلِكَ بُنِيَ .

279. Muḥammad said, “Abū Ḥanīfah informed us that Ḥammād said, ‘I asked Ibrāhīm[875] about recitation in the public baths and he said, “They have not been built for that.”’”

قَالَ مُحَمَّدٌ : وَإِنْ شِئْتَ فَاقْرَأْ .

Muḥammad said, “But if you wish, recite.”[876]

٢٨٠ – قَدْ بَلَغَنَا عَنِ الضَّحَّاكِ بْنِ مُزَاحِمٍ أَنَّهُ قَرَأَ فِي الْحَمَّامِ .

280. It has reached us that aḍ-Ḍaḥḥāk ibn Mazāḥim recited in the public baths.

٢٨١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : أَرْبَعَةٌ لَا يَقْرَؤُونَ الْقُرْآنَ إِلَّا الْآيَةَ وَنَحْوَهَا : الْجُنُبُ ، وَالْحَائِضُ ، وَالَّذِي يُجَامِعُ أَهْلَهُ ، وَفِي الْحَمَّامِ .

281. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘There are four who do not recite the Qur’ān except for an *āyah*[877] or so: the person in need of a *ghusl* because of sexual relations, the menstruating woman, the person making love to his wife, and in the public bath.’”[878]

٢٨٢– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : اذْكُرِ اللَّهَ عَلَى كُلِّ
حَالٍ، فِي الْحَمَّامِ وَ غَيْرِهِ إِذَا عَطَسْتَ.

282. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Remember Allah[879] in every state, in the public bath and elsewhere, when you sneeze.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٢٨٣– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : اِحْمَدِ اللَّهَ عَلَى
أَيِّ حَالٍ كُنْتَ؛ فِي خَلاءٍ أَوْ غَيْرِهِ.

283. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Praise Allah in whatever state you are, whether in the toilet[880] or elsewhere.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

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[262] And he is narrating from ʿAlqamah and al-Aswad.

[263] He taught them by his action, which is clearer and makes a better impression on the heart.

[264] So that they could learn that which they had asked him and so that they would know that this *duʿā* is recited after the start [of the prayer].

[265] Abū Yūsuf narrated it on p.21, as did Ibn Khuzaymah in his *Ṣaḥīḥ*, vol.1, p.240, and al-Ḥākim in the *Mustadrak* in the book on "prayer," the chapter on "the supplication which begins the prayer" from ʿUmar ibn al-Khaṭṭāb.

[266] Abū Yūsuf and ash-Shāfiʿī said that one unites, "Glorious are You, O Allah..." and "I have directed my face...." The *duʿā* that are reported in the hadith are interpreted by us as optional or as being for the prayer of the night.

[267] One raises one's hands, in our view, level with the ears until one's thumbs are level with the earlobes and the tips of the fingers level with the tips of the ears. Know that raising the hands in the prayer is firmly established in a number of places, and they agreed that raising the hands in the *takbīrat al-iḥrām* is recommended. Similarly, the dominant majority agreed that it is not recommended apart from in three places, i.e., in between the two prostrations, after two *rakʿahs* and in every lowering oneself down and raising oneself up, even if there are narrations concerning that. They differed on raising the hands upon bowing and after it. Abū Ḥanīfah and his companions gave the verdict that one leaves out raising the hands at these two places, and this is narrated by Ibn al-Qāsim of Mālik and thus the Mālikis chose that as their position. Ash-Shāfiʿī and Aḥmad gave the verdict that one should raise them in both places, and this is also narrated of Mālik. Our proof is that which Muslim narrated from Jābir ibn Samurah who said, "The Messenger of Allah ﷺ came out to us and said, 'What is it that I see you raising your hands as if they were the tails of headstrong horses. Be still in the prayer.'" There is that which Abū Dāwūd and at-Tirmidhī narrated of ʿAbdullāh ibn Masʿūd ؓ that he said, "Should I not lead you in prayer with the prayer of the Messenger of Allah ﷺ?" and he prayed without raising his hands the first time.

[268] Abū Yūsuf narrated it on pp.20-21.

[269] i.e., if he has the capability to pronounce the *takbīr*, which is a precondition or an integral element (*rukn*) according to the two differing viewpoints. Moreover, the precondition for the soundness of the *takbīr* is that it should happen while one is standing in the case of someone who is able to, such that if he said the *takbīr* seated and then stood, he would not have entered [the prayer]. If one finds the imam bowing or in any other position, one ought to say the *takbīr* standing and then follow him in the position that he is in.

[270] Abū Yūsuf narrated it on p.21.

[271] i.e., in the state that he is standing at the time of the *takbīr* intending by the *takbīr* of bowing that it be for the purpose of entering the prayer.

[272] Abū Yūsuf narrated it on p.22.

[273] Prostrating on the turban without excuse is *makrūh tanzīhī* [disapproved of to a lesser degree than being *ḥarām*].

[274] It was ʿAlqamah ibn Qays.

[275] Thus it is clearly established that the recitation in the daytime is only done secretly, and there has to be recitation in the prayer of *Ẓuhr* and *ʿAṣr*.

[276] It is disapproved to repeat a sūrah within a single *rakʿah* but there is no harm in that in optional prayers, because it has not been established of the Prophet ﷺ that he voluntarily repeated a single *āyah* in the obligatory prayers. As for the action of Ibn Masʿūd ﵁ perhaps it was for the purpose of supplication and that he was overcome in seeking increase in knowledge.

[277] Abū Yūsuf narrated it on p.30.

[278] Bilāl ibn Mirdās.

[279] In every act of lowering oneself down and raising oneself up. The *tashahhud* of Ibn Masʿūd is very well-known and acted upon.

[280] Abū Yūsuf narrated it on p.22.

[281] To Ibrāhīm.

[282] i.e., should I recite the *basmalah* at the beginning [of the *tashahhud*] or not?

[283] i.e., don’t do anything extra to that.

[284] i.e., we do not recommend it and are not pleased with it.

[285] In this there is a proof that when the prayer was first obligated there was no *tashahhud* in it, neither as an obligation nor as a sunnah, and it remained like that for some time until the day when the Prophet ﷺ heard it and forbade them, and told them to say, “Greetings are for Allah…”

[286] The upshot of it is that the Prophet ﷺ rejected greetings for Allah and made clear that it is the opposite of that which ought to be said, because every peace and mercy is His and from Him and He is its owner.

[287] Abū Yūsuf narrated the like of it from Abū Ḥanīfah from Ḥammād from Abū Wā’il from Ibn Masʿūd p.53.

[288] ʿAbdullāh ibn Mughaffal.

[289] ʿAbdullāh ibn Mughaffal said to the imam.

[290] "ʿAbdullāh" – this was not the imam's name but what was meant was its linguistic sense. In some printed editions it is "O Abū ʿAbdullāh" but this is not correct.

[291] i.e., "be far away from us with this loud recitation of these words of yours, and do not recite them aloud." Leaving off reciting the naming is more fitting than reciting it aloud, because the narrations that mention leaving out its recitation aloud are more numerous and clearer than those concerning reciting it aloud. The narrations that mention reciting it aloud are interpreted as being for the purpose of teaching or they occurred before the command to leave off reciting it aloud.

[292] Abū Yūsuf narrated it on p.22.

[293] i.e., their recitation was aloud, being ascribed to the actions of desert Arabs who do not understand the matters of the *dīn*. Desert Arabs comprise all those who live out in the countryside.

[294] Abū Yūsuf narrated it on p.22.

[295] i.e., he says them secretly because the original and basic position about all acts of remembrance is that they are concealed and that is not to be given up except because of pressing necessity. The ruling on the solitary person is the same as that on the imam, but he was singled out for mention in this respect because the doubtfulness in his case is more obvious.

[296] Abū Yūsuf narrated it on pp.21-22.

[297] The prohibition of reciting behind the imam is narrated from eighty individuals of the great Companions among them ʿAlī, the three ʿAbdullāhs [Ibn ʿAbbās, Ibn ʿUmar and Ibn Masʿūd] and others.

[298] He declared that clearly in case someone thought falsely that one recited in them, and so he repudiated it clearly even though it should be understood from the preceding sentence.

[299] A clear declaration that he did not think that there should be recitation behind the imam in any of the prayers which are recited aloud or secretly from which is learnt the falsehood of the statement of some of our people [the Ḥanafis] who said that Imam Muḥammad agreed with ash-Shāfiʿī concerning reciting behind the imam in prayers in which the recitation is done inwardly. Mālik and Aḥmad said that one recites at the same time as the imam in that in which he recites inwardly but not in that in which he recites aloud, and ash-Shāfiʿī said that one recites the *Umm al-Kitāb* [the Fātiḥah] in that in which he recites inwardly and in that in which he recites aloud.

[300] A Companion.

[301] *Ẓuhr* or *ʿAṣr*.

[302] In one narration there is that, “he squeezed him,” and in another that “he signalled to him.”

[303] After finishing the prayer.

[304] Abū Yūsuf narrated it on p.23, and Ibn Mājah under “the prayer” in the chapter on “when the imam recites then be attentively silent,” and aṭ-Ṭaḥāwī in the *Sharḥ Maʿānī al-āthār*, the book on “prayer” in the chapter of “recitation behind the imam,” and ad-Dāraquṭnī in the book on “prayer” in the chapter on, “whoever has an imam then the imam’s recitation is his recitation.”

[305] [A command] whose purpose is to grant permission, since it is narrated that there is to be no recitation behind the imam.

[306] Abū Yūsuf narrated it on p.24.

[307] He should leave out the *āyah* which he recited wrong and begin with another *āyah*.

[308] i.e., he did not remember it or wasn’t able to do so.

[309] The imam is wrong in doing that since he had a choice to move on to the next *āyah* or go into *rukūʿ* but he didn’t do either of those things, and so the person following him resorted to prompting him, but that is contrary to the stillness and humility in the prayer which are both commanded in hadith.

He is wrong since in Ḥanafī *fiqh* prompting the imam is considered to go against the stillness and humility required of those who follow the imam, but by the imam not taking any of the options outlined the imam has forced someone to prompt him.

[310] i.e., stick close together and pack closely together until you are adjoining each other.

[311] The conjunction “or” is used here because of the possibility of either one of two matters: either the straightness of the rows or *shayṭān* inserting himself between them, meaning that *shayṭān* will enter in the gaps in your rows and whisper in your breasts so that your hearts will come to differ.

[312] Abū Yūsuf narrated it from Ibrāhīm from ʿUmar ibn al-Khaṭṭāb on pp.31-32.

[313] i.e., in the time of the Companions. There is no negation of the superiority of the first row, but on the contrary there is affirmation of it from another point of view, by prohibiting standing in the second row until the first row is complete.

[314] i.e., standing in the first row when it is already complete.

[315] Causing annoyance is not permissible, so then to stand in the first row is not recommended, but on the contrary it is disapproved.

[316] Emigration (*hijrah*) can have both the sense of leaving the abode of *kufr* for the abode of Islam, or abandoning wrong actions for right actions. Ibn al-Malik said, “What is reckoned on today is the *hijrah* of meaning, so that the person who has the most scrupulousness in the *dīn* has more right to the imamate.

[317] Abū Yūsuf narrated it on p.32.

[318] That is they accepted Islam as adults and would learn *fiqh* before reciting the Qur’ān, and so those who had more Qur’ān had more *fiqh* and more knowledge. After them they used to learn the Qur’ān as children before learning *fiqh*.

[319] The dominant majority took the position that the imamate of a desert Arab or a slave are valid, but Mālik disagreed ﵁.

[320] Any of them.

[321] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.2, pp.29-30.

[322] i.e., level with him. This is a clear statement that his position is that if the person led in prayer is a single person, he stands to the right of the imam. If he stands to the left of the imam, it is valid but a wrong act.

[323] Abū Yūsuf narrated it on p.44.

[324] In *al-Jāmiʿ* there is that “it became time for the prayer” [without mention of “suddenly”], and it is a weightier [narration].

[325] This is the position of Ibn Masʿūd ﵁, but all of the *ʿulamā’* of the Companions and those after them differed with him, and they said that if there are two men with the imam they both stand behind him in a row because of the hadith of Jābir and Jābir ibn Ṣakhr and they agreed unanimously that if there are three people they stand behind him. The wording, “do it!” clearly refutes those who answered that he had done it like that because of the constriction of the place or for some other valid excuse.

[326] [The word] *taṭbīq* means to gather the fingers of the two hands together and place them in between the knees in bowing and in *tashahhud*. Perhaps Ibn Masʿūd ﵁ thought that it was one of those things that are permissible or an obligatory duty (*ʿazīmah*), since that is closer to [expressing] incapacity.

[327] i.e., in the mosques of the city.

[328] Abū Yūsuf narrated it on pp.49-50.

[329] The upshot is that the *adhān* and the *iqāmah* are both sunnah with respect to people of the mosque and it is disapproved to abandon either of them. As for other people, then neither of them is a strongly confirmed (*mu’akkadah*) sunnah, but on the contrary they are

recommended and it is permissible to leave them out in cases of need, since the *mu'adhdhin* is deputised by the people of the locality.

[330] i.e., ʿAlqamah and al-Aswad, and their position had been to place the palms of the hands together between the knees in *rukūʿ* before they met ʿUmar, and after that they gave it up.

[331] i.e., it is a strongly confirmed (*mu'akkadah*) sunnah.

[332] Abū Yūsuf narrated it on p.50.

[333] They were probably Miḥjan and his brother.

[334] To the mosque.

[335] This is the authentic [wording] as in most books and in *al-Jāmiʿ* and *al-ʿUqūd*, but in some copies of the *Āthār* it is, "their joints." Even though this has a meaning, yet it is contrary to the majority of books. This wording refers to the flesh between the side and the shoulder which quakes and moves when one is afraid.

[336] The order to repeat it is voluntary and is not obligatory. And the hadith, "An obligatory prayer is not [to be done] twice in one day," is interpreted as meaning that both are done as obligatory [whereas the second is an optional prayer].

[337] i.e., the one you pray in *jamāʿah*.

[338] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.2, p.75.

[339] In the mosque with the *jamāʿah*.

[340] i.e., no optional prayers.

[341] Disapproved to the extent of being *ḥarām* (*makrūh taḥrīm*).

[342] This is not the transmitted position (*ẓāhir ar-riwāyah*) and in *al-Hidāyah* "And similarly after *Maghrib* in the transmitted position, since doing optional prayers with three *rakʿahs* is disapproved, and in saying make it four *rakʿahs* he contradicts the Imam."

[343] He was Ṭalḥah ibn Nāfiʿ.

[344] *iḥtibā'* is to squat in such a fashion that one ties a cloth or a turban around the legs and back to prevent oneself from falling. It was a characteristic Arabic way of squatting without actually sitting down. – Trans.

[345] Abū Yūsuf narrated it on p.57.

[346] i.e., an action which does not invalidate the prayer.

[347] Whatever he has used in *iḥtibā'* such as a garment or something else. Doing optional prayers seated is agreed upon unanimously, but they differed about how one should sit, the preferred position being that one in which one sits for *tashahhud* since that is one that is legislated for the prayer.

[348] He was Muḥammad ibn ʿAlī ibn al-Ḥusayn.

[349] *ʿIshā'* is sometimes referred to as "the last *ʿIshā*'" (*al-ʿIshā' al-ākhirah*) as opposed to "the first *ʿIshā*'" (*al-ʿIsha' al-ūlā*) which is *Maghrib*. – Trans.

[350] The apparent meaning is without separating them by saying the *salām*, and that is our position.

[351] He counted them among the prayer of the night because of their closeness to them.

[352] Abū Yūsuf narrated it on p.34.

[353] Because of its high position as a voluntary prayer, and in that there is evidence for the verdict of Abū Ḥanīfah that the *witr* is incumbent (*wājib*).

[354] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.2 p.238.

[355] So that there should not necessarily be any resemblance with the People of the Book since they used to pray in the *miḥrabs* of their places of worship, and *aṭ-ṭāq* is the *miḥrāb*.

[356] i.e., level with it because the sunnah is that the man should stand at the midpoint of the row, and if he stands on either side of it he will not be at the midpoint.

[357] Because the feet are what are taken into account, so that if the imam stands in the *miḥrāb* it is disapproved, the reason for which is that he is distinguished from the others in terms of place, since the *miḥrāb* is in a sense another building, and that is the practice of the People of the Book.

[358] The person behind the imam.

[359] What is meant is that the person following not get up and go away until he has verified that the imam has finished the prayer.

[360] The *fiqh* is that the imam should not sit in the place in which he has led the prayer after finishing the prayer.

[361] The follower.

[362] The imam.

[363] i.e., does not know that it is recommended that he speedily stand up after the *salām* and not remain sitting for a long time in the place where he prayed.

[364] *ar-raḍif* means hot stones, and *al-ḥijārah al-muḥammāh* means the same and is an interpolation from the transmitter to make the former word clear.

[365] Abū Yūsuf narrated it on p.31.

[366] i.e., if, because of the tightness of the place or for some other reason, he is not able in the *tashahhud* to sit according to the Sunnah then let him sit on his right leg, because reasonable excuses make those things ordinarily warned against permissible.

[367] i.e., the ordinary sitting posture for *tashahhud*.

[368] i.e., it makes a distinction between them, and the *salām* is the separator so there is no need for another, such as moving to another place etc.

[369] Abū Yūsuf narrated it on p.52.

[370] In another narration it is twenty-seven. Some say that the narration which mentions twenty-five is weightier because of the numerous number of its narrators, and some say that the narration mentioning twenty-seven because in it there is an extra amount over and above simple justice, and because mention of a smaller amount does not negate a larger amount.

[371] The sound position is that it was Muḥārib ibn Dithār without doubt, as aṭ-Ṭabarānī narrated.

[372] In reward.

[373] In *al-Jāmiʿ* it is,"I think that you cling closely to us only wishing good for yourself."

[374] The *kunyah* of Ibn ʿUmar.

[375] "Watch out!" meaning "safeguard."

[376] i.e., leaving ample property to pay it.

[377] i.e., just as you made him notorious, and [wrongful] repudiation of a child is one of the great wrong actions.

[378] With humility, submissiveness and stillness.

[379] Abū Yūsuf narrated the like of it on p.50.

[380] Because the mosque from beneath to up on top is all mosque and its rulings apply equally to it. There is no harm that someone following the imam pray on top of the mosque along with the prayer of the imam if he can hear his voice or see some of those behind him.

[381] Unless the rows are connected across the path in which case the prayer is valid without any disapproval.

[382] This prevents the following.

[383] Abū Yūsuf narrated the like of it on p.67.

[384] Being distracted from the prayer is more to be avoided than wiping the face, so one has to choose the lesser of the two.

[385] Abū Yūsuf narrated it on p.31.

[386] i.e., it does not take the place of the *sutrah* which has been commanded, but on the contrary the Sunnah is the goal and to set it up erect.

[387] i.e., to set it down horizontally.

[388] Abū Yūsuf narrated it on p.47.

[389] i.e., if he does not set it erect but lays it down or draws a line or does nothing of these things and prays without a *sutrah*, his prayer is valid, because setting it up is neither obligatory (*farḍ*) nor incumbent (*wājib*).

[390] Lengthy prostration is a valid excuse, and so it is unqualifiedly valid in voluntary and obligatory prayers in our view, because the hadith made no distinction between the obligatory and the optional prayers. Mālik said that it is only for optional prayers because of lengthy prostration, but is not to be done in the obligatory prayers or short voluntary prayers.

[391] And he did not make clear the place where he rested them, and it was for that reason that Muḥammad explained it by saying, "He places..." The original situation is that every standing position in which there is a sunnah *dhikr* then one rests [one hand on the other] but otherwise one does not.

[392] At-Tirmidhī narrated the like of it under "the prayer" in the chapter on "what has been narrated concerning placing the right over the left in prayer."

[393] Because of that which is narrated from Wā'il ibn Ḥujr رضي الله عنه that he said, "I saw the Messenger of Allah ﷺ placing his right hand on his left hand underneath the navel." The Ḥāfiẓ said, "The *chain of transmission* of Qāsim ibn Buṭlūbaghā is excellent."

[394] He was Ziyād ibn Kulayb at-Tamīmī.

[395] The passage in brackets is omitted in some copies, and apparently it was dropped by the scribe, and so we have added it back in from other books.

[396] By way of being recommended. It is obvious that he used to do the *witr* with three *rakʿahs* with a single *salām* and two *tashahhuds*. An-Nasā'ī narrated it and added, "And one does not say the *salām* except at the end of them." The Sunnah is the three sūrahs. However, there is in *an-Nihāyah* that specifically choosing to persevere in them leads to some people believing that it is incumbent (*wājib*) which is not acceptable. Thus, if one sometimes recited that which the traditions narrate without persisting in it, it would be good.

[397] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.2 p.94.

[398] i.e., "If someone gave me red camels in exchange for me giving up the *witr* composed of three *rakʿahs* I would not want to give them up." The red camels are the best variety of camels, as as-Suyūṭī mentioned.

[399] Ibn Abī Shaybah narrated the like of it in the *Muṣannaf*, vol.2, p.91.

[400] i.e., One does not pray it afterwards nor make up for it.

[401] Because hadith are narrated confirming it and concerning the fact that one does have to make it up. The Messenger of Allah ﷺ said, “Allah, exalted is He, has given you an extra prayer and it is the *witr*.” It is narrated by aṭ-Ṭabarānī and Abū Dāwūd narrated that, “Whoever sleeps through the *witr* or forgets it should pray it when he remembers it.”

[402] The first *rakʿah*.

[403] Without saying the *salām*.

[404] Because his prayer is completed. However, we say that this contradicts the hadith, “The imam has only been appointed to be taken as a model,” so that if one says the *salām* in the middle one is no longer taking him as a model, and because in this there are two prayers together: the obligatory and an optional prayer at the same time, and a half of it is obligatory and a half optional, and there is nothing else like that in the *Sharīʿah*.

[405] i.e., secretly.

[406] i.e., after the interruption of the prayer. The two *rakʿahs* he prays by himself and the two he prays with the imam become obligatory and what remains of the two *rakʿahs* he prays with the imam become optional for him.

[407] A second time for his entrance in the prayer along with the imam with the intention of an optional prayer.

[408] Because the first even number of *rakʿahs* was of the obligatory prayer which he prayed individually.

[409] If he had reached to doing a prostration in the first *rakʿah* to safeguard what has already been discharged from being void, but if he has not done a prostration then he interrupts what he is doing and begins afresh with the imam then that will be correct.

[410] He misses the beginning of the prayer with the imam.

[411] i.e., wherever he enters without having walked to the row, meaning that he should bow right there and not delay the bowing until he reaches the row. “Without doing it in haste” means that he should not exert himself overmuch in trying to reach the row, and with us that is not recommended.

[412] Because of what is narrated from the Prophet ﷺ, “When the prayer is called, do not come to it in haste, but come to it in a state of tranquillity. Whatever you catch then pray it, and whatever you miss then complete it.”

[413] i.e., “in eagerness for good.” Ibn al-Munīr said, “The Prophet ﷺ affirmed the action of Abū Bakrah in a general sense, which is the earnest desire to catch the extra merit of praying in the group, but he said that he was mistaken in a particular sense [which was his

bowing before reaching the row]. There is in the hadith that, ‘Whoever reaches the imam in whatever position he is must do what the imam is doing.’”

[414] Al-Bukhārī narrated it in the book on “the *adhān*” in the chapter on, “when someone does *rukūʿ* before [reaching] the row,” and Abū Dāwūd in the book on “the prayer” in the chapter on “a man doing *rukūʿ* before [reaching] the row,” and an-Nasāʾī in the book on “the imamate” in the chapter on “*rukūʿ* before [reaching] the row.”

[415] There is no disagreement concerning prayers other than the Jumuʿah that whoever reaches the imam in whatever part of it, follows him and then completes whatever is required of him to discharge.

[416] i.e., after his bowing in the second *rakʿah* because if he catches a *rakʿah* of the Jumuʿah then there is agreement that he builds upon that [and completes the two *rakʿahs* of] the Jumuʿah.

[417] To begin the prayer.

[418] To descend to the sitting position.

[419] The reason for the disagreement is according to how much of the prayer the follower has participated in. Abū Ḥanīfah and Abū Yūsuf said that to participate in saying the *takbīr* that opens the prayer [before the imam finishes his prayer] is enough, but Muḥammad said it is incumbent to have participated in an entire *rakʿah*.

[420] However, the hadith attributed directly to the Prophet ﷺ are all weak and it is not valid to use them in proof, and the majority take the position that “a *rakʿah* of the Jumuʿah” is inserted. The hadith that stop short at the Companions are mutually contradictory, so the weightiest position is the hadith, “That which you catch, pray it, and that which you miss, complete it,” or, “make it up.”

[421] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.2, p.461.

[422] Because it is the second *rakʿah* and so one has to say *tashahhud* after it. He said in *Fatḥ al-Qadīr*, “Then the person who missed part of the prayer makes up for the first of the prayer in respect to its recitation and the end of it in terms of its *tashahhud*.”

[423] Each repudiated what the other had done.

[424] They each hastened to go to Ibn Masʿūd ﵁ before the other to ask about the matter.

[425] Should he read the *tashahhud* along with him or remain silent?

[426] Ḥammād asked, “Should he say the *salām* when the imam says the *salām*?”

[427] Ibrāhīm said, “No, but rather when he finishes…”

[428] He led them in prayer without *adhān* or *iqāmah* because the *adhān* and *iqāmah* of the local mosque are the same as his *adhān* and *iqāmah*.

[429] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.1, p.199.

[430] Meaning that it is recommended in our view in order that it should be done in the most complete and perfect manner that the performance should be done in the manner of the group (*jamāʿah*).

[431] Abū Yūsuf narrated it on p.30.

[432] It is the same whether one remembers while praying or after finishing.

[433] Thus it is in the written copies, contrary to the usual manner of Muḥammad who ordinarily would say, "He informed us," and it is probable that it is a copyist's error.

[434] Abū Yūsuf narrated it from Abū Ḥanīfah from Ḥammād from Ibrāhīm on p.29.

[435] It probably means that they are not obliged to repeat the prayer because they didn't know and he doesn't have to tell them because he had not done it deliberately. So Mālik and ash-Shāfiʿī said that there is no need to repeat the prayer for those who prayed behind someone who forgot that he was in need of a *ghusl* because of sexual relations, and that it is only the imam who has to repeat the prayer. However, they do have to repeat the prayer also [in the view of the Ḥanafī *madhhab*].

[436] To such an extent that her foot is level with any limb of the man's. This is the issue of a woman being level with a man in the prayer.

[437] Because of the saying of Ibn Masʿūd, "Put them back since Allah has put them back." When he stands beside her or behind her and they are participating in the same prayer, his prayer is invalid because he abandoned that which is obligatory upon him since he is the one commanded to make [her] step back. Ash-Shāfiʿī said that [his prayer] is not invalidated from consideration of her prayer.

[438] A precondition for invalidating [the prayer] is participation in the [*takbīrah*] *taḥrīmah* and the performance [of the prayer], but that does not exist in this situation.

[439] This is also permissible if the garment is large, and it is does not hinder him from abasement [before Allah].

[440] Abū Yūsuf narrated it on p.47.

[441] This explains the nature of participation in the performance [of the prayer] which is that one of them is the imam for the other or they both have the same imam.

[442] In which case it is not disapproved.

[443] A broad piece of wood level with the rider's head [against which the rider leans], meaning the rear part of the saddle, since its interposition prevents the being level which would invalidate the prayer.

[444] It is as if by that she indicated that which the people of Iraq narrated from Abū Dharr ؓ and others concerning that from the Prophet ﷺ in which there is that a dog, a woman and a black dog break the prayer [of the person whom they pass in front of].

[445] Thus it occurs in the *Āthār*, *Jāmiʿ* and the *ʿUqūd* but in other books the addition of cats is not found by other paths of transmission from ʿĀ’ishah, but there is that which is in the hadith of Abū Hurayrah ؓ in *Kanz al-ʿummāl*, “The cat does not interrupt the prayer because it is a part of the household goods.”

[446] Aṭ-Ṭaḥāwī and others inclined to the view that the hadith of Abū Dharr is abrogated by the hadith of ʿĀ’ishah ؓ. Ash-Shāfiʿī and others said that what is meant by it is an interruption of the humility [required in the prayer] rather than it being something that brings one out of the prayer.

[447] Abū Yūsuf narrated it on p.47 from Ibrāhīm from ʿAbdullāh omitting al-Aswad ibn Yazīd.

[448] Talking about what does not concern one after *ʿIshā’* is the ugliest defect and it is abhorent if it is not needed because it leads to deep sleep so that one misses the prayer of *Ṣubḥ* or the night prayer.

[449] Discoursing with the Lord. – Trans.

[450] A Companion.

[451] ʿAlī ibn Abī Ṭālib ؓ.

[452] Unintentionally.

[453] ʿAlī.

[454] They did not know the wrong of it, and so what is meant is, “We are excused for that, and we did not continue [the prayer] after what issued from us, but on the contrary we left [the prayer], did *wuḍū’*, and we did not pray while in an impure state for we know its ugliness and evil consequences.”

[455] What wrong actions they were doing.

[456] Abū Yūsuf narrated it on p.38.

[457] If one wants to base oneself on what one has already prayed if one has vomited, belched [bringing vomit into the mouth] or had a nosebleed, then, as long as one has not spoken, one should leave the prayer and do *wuḍū’* and base oneself on what one has already prayed. Ash-Shāfiʿī ؒ said that one begins again, but this is an analogical deduction.

[458] Because remembrance of Allah does not negate the prayer.

[459] After sunset.

[460] Abū Dāwūd narrated the like of it from Ṭāwus from Ibn ʿUmar under "the prayer" in the chapter on "prayer before *Maghrib*."

[461] Mālik and ash-Shāfiʿī also gave this verdict.

[462] Ash-Shaʿbī said, "It is not to be repeated until it is more than the size of a dirham, and we adhere to this, because it is more generous. Aḥmad said, "Repeating the prayer is not obligated upon him even if it is more than the measure of a dirham." Ash-Shāfiʿī said, "He has to wash even if it is less than a dirham," and he was stringent about that.

[463] Whose measure was the width of the palm of the hand.

[464] The *mithqāl* dirham is a dirham and three sevenths of a dirham, according to Lane. Very early in Islamic history the precise dirham and dinar measures, which are so important in the *zakāh* and other matters, were abandoned and irregular sized coins were used. The point of the text here seems to be that an unusually large dirham is meant. Indeed, Ḥāfiẓ Riyāḍ Aḥmad al-Multānī specifies one whose measure is as wide as the centre of the palm of the hand, about 4 to 5 inches in diameter. – Trans.

[465] Abū Yūsuf narrated it on p.39.

[466] In *al-ʿUqūd* it is that, "Muḥammad said, 'Abū Ḥanīfah informed us from ʿAbd al-Malik...'" which is the *ṣaḥīḥ* because Muḥammad only narrated from ʿAbd al-Malik through Abū Ḥanīfah.

[467] Meaning optional prayers, and in the same sense there is no *ṭawāf* because both of them are disapproved.

[468] After the prayer of *Ṣubḥ* or after the dawning of the *Fajr*.

[469] As for while it is rising, prayer is *ḥarām* unqualifiedly at that time, and similarly at the time of setting except for *ʿAṣr* of that day.

[470] The day of its *ʿĪd*.

[471] The first day of Sacrifice and similarly the remaining days of Sacrifice and the days of *Tashrīq* (drying the meat).

[472] The intention is to prohibit other mosques than these. The expression in Arabic denotes tightening a camel saddle which is an expression denoting travel, and what is intended here is that one should not travel to any mosques except for these three mosques, but it is permissible to travel for trade, seeking knowledge and other purposes.

[473] For three days and more. It is narrated of Abū Ḥanīfah and Abū Yūsuf that they disapproved of her going out for a day's journey without a *maḥram* male relative, and the *fatwā* ought to be based on that because of the corruption of the age [in which we live].

[474] *dhū maḥram* or *maḥram* is someone whom the woman can never marry under any circumstances, whether she is widowed or divorced, etc. Thus, for example, it is not her husband’s brother, but it could be her husband’s father. – Trans.

[475] Abū Yūsuf narrated it on pp.19-20.

[476] i.e., it is not permissible, because the phrase “ought not” is universal and encompasses both disapproval and prohibition.

[477] Without gathering up and folding its ends, which is called *sadl*.

[478] i.e., his side above the top of the hip.

[479] Levelling them without sufficient excuse.

[480] This is the first meaning given in *an-Nihāyah fī gharīb al-hadith*, and the second meaning is that it is to sit on the heels [with the feet erect] in between the two prostrations or in the sitting positions of the prayer. – Trans.

[481] Abū Yūsuf narrated it on p.52.

[482] Abū Yūsuf narrated it on p.39.

[483] Abū Mūsā al-Ashʿarī and others.

[484] Whoever prayed a prayer without reciting in it until he finished it must repeat the prayer whether he did that out of forgetfulness or deliberately, and similarly if he only did that in one *rakʿah*.

[485] *ʿīr* are camels carrying food, and then it was used for caravans, and here it means the army.

[486] They repeated the prayer because he had not recited the Qur’ān, not because he was absorbed in thought. This is reinforced by the words of ʿUmar, “I calculate the *jizyah* of Baḥrayn while in prayer.”

[487] Qazaʿah ibn Yaḥyā.

[488] He did this in the presence of the Companions without them repudiating it, which is proof that his praying after *ʿAṣr* was particular to him.

[489] Abū Yūsuf narrated it on p.20.

[490] There is no harm in performing missed prayers, prostrations for recitation of [*āyāt* of prostration in] the Qur’ān, and funeral prayers at this time.

[491] Sharing the same intention is obligatory. Ash-Shāfiʿī said that the follower follows the imam in accordance not in terms of validity and invalidity, so much so that the prayer of someone doing an obligatory prayer is valid behind someone praying optional *rakʿahs* as is the prayer of someone praying *Ẓuhr* behind someone praying *ʿAṣr* in his view.

[492] Abū Yūsuf narrated it on p.34.

[493] i.e., “if anyone gave me this insignificant sum in exchange I would also not take it, and I would not purchase it with it, and would not be pleased with it because it is the prayer of the hypocrite at the time when the *shayṭān* is coupled with the sun, and to do so voluntarily is abhorent to the degree of being *ḥarām* (*makrūh taḥrīm*).

[494] *falas* pl. *fulūs* are the small copper coins that were used as small denominations. Their value was restricted to less than half a dirham and their use was limited a great deal in the *fiqh*. However, modern currencies were introduced into the Muslim lands by the banks under the erroneous suggestion that they were *fulūs*, thus giving the modern Arabic usage of *fulūs* for money itself. – Trans.

[495] Abū Yūsuf narrated it on p.19.

[496] *makrūh* has a range of meanings with Imam Muḥammad from disliked to prohibited.

[497] It is the one whose weight amounts to a *mithqāl* not the one whose weight is twenty *qīrāṭ*.

[498] The place in which a thing is drawn together or grasped, the earth enfolds and gathers people, their living and their dead.

[499] Abū Yūsuf narrated it on p.41.

[500] If it causes one nuisance during the prayer there is no harm in killing it.

[501] The tradition does not fit in this section unless one stretches the point a great deal, and is more suitable for the chapter on “*wuḍū’*.”

[502] i.e., he doubts about its existence during the prayer.

[503] This refers to urine that has not come out of the penis, for if it comes out there is no doubt about his *wuḍū’* being invalidated.

[504] He should not leave the mosque for *wuḍū’*, but should do *tayammum* and pray, and apparently he should base himself on the prayer with which he began.

[505] i.e., *wuḍū’* and the prayer.

[506] Because the basic principle is that certainty does not depart because of a doubt, so if one is certain of having done *wuḍū’* it is not invalidated by a passing doubt.

[507] After *wuḍū’* and before beginning prayer so that *shayṭān* cannot overcome you with whisperings.

[508] Experience is here in the sense of “thinking.”

[509] From the water you sprinkled, and that nothing came out of it [i.e., the penis].

[510] i.e., the whispering that something has emerged, from which it is understood that if is not frequent but happens once or twice, that one should break off the prayer, repeat *wuḍū’* and the prayer.

[511] Meaning that it is permissible, and on the contrary it is recommended. He said in *Durr al-mukhtār*, “And one’s prayer is disapproved with one’s head uncovered because of laziness, but there is no harm in it in order to show humility.”

[512] Because of what is narrated from the Prophet ﷺ that he forbade a man from covering his mouth.

[513] Abū Yūsuf narrated it on pp.43-44.

[514] Because the sequence of performance of missed prayers or a single missed prayer and the current prayer is obligatory.

[515] As did Mālik and ath-Thawrī contrary to ash-Shāfiʿī, may Allah have mercy on them.

[516] Because in our view the sequence of the prayers may be dropped because of the shortness of the time, forgetfulness and having a great number of missed prayers to do.

[517] Abū Yūsuf narrated the like of it on p.26.

[518] From Maʿbad ibn Ṣubayḥ ؓ from the Prophet ﷺ.

[519] *zubyah* is a pitfall dug in a high place to catch wolves and lions. In another copy it is *rukyah:* a well, which agrees with other transmissions in which there occurs the word “well.”

[520] That is what the traditions narrate, and ash-Shāfiʿī and Mālik said that prolonged intense laughter in prayer voids the prayer but not *wuḍū’*.

[521] Abū Yūsuf narrated it on p.28 from al-Ḥasan al-Baṣrī from Maʿbad from the Prophet ﷺ.

[522] Smiling neither nullifies *wuḍū’* nor prayer. Laughter nullifies prayer but not *wuḍū’*. Prolonged intense laughter nullifies both *wuḍū’* and the prayer.

[523] For the prayer of *Fajr*.

[524] On his right side, and when the Prophet ﷺ went to his bed he would place his right hand under his right cheek.

[525] He would breath making an audible noise so much so that this sound of his breathing through his mouth could be heard from him as it is heard from someone asleep. This breathing through his mouth ﷺ was not because of something that had happened to him but was constitutional.

[526] He woke up and did not do *wuḍū’* a second time because his sleep had not nullified his *wuḍū’*.

[527] Abū Yūsuf narrated it on p.8.

[528] This is one of the special qualities of the prophets, peace and blessings be upon them.

[529] One of them said that sleep does not nullify *wuḍū’* in any case, and a second person said that it nullifies *wuḍū’* in every case, and a third that much sleep nullifies *wuḍū’* in every

case, and a little sleep does not nullify it in any case and that is the position of Mālik and others. A fourth said that if one falls asleep in any of the postures of the prayer such as while in the bowing position or in prostration that it does not nullify *wuḍū'*, but that if one falls asleep reclining or on one's back then *wuḍū'* is nullified, and that is our position.

[530] Abū Yūsuf narrated it on p.12.

[531] This is an exaggeration of the disapproval of sleeping before *ʿIshā'*. How is that? Because it is preferable to leave it in order to do it with the group.

[532] Abū Yūsuf narrated the like of it on p.48 from Ibrāhīm.

[533] He expressed the disapproval unqualifiedly without any restriction, but it is likely that it is the position of Abū Ḥanīfah and it is the most cautious judgement. Ḥāfiẓ aṭ-Ṭaḥāwī restricted the disapproval of sleeping [before *ʿIshā'*] to someone who fears missing the prayer in its time or missing the group.

[534] *ʿArrasa* means a traveller alighted in the latter part of the night to sleep.

[535] Safeguard us.

[536] This legislates the calling of the *adhān* for missed prayers.

[537] Because making up prayers imitates their performance [within the time], so that the imam recites aloud if it was a prayer which would ordinarily be recited aloud and otherwise he recites silently.

[538] Abū Yūsuf narrated it on p.25.

[539] The pronoun refers to the single day, but it would be more obvious to have a feminine pronoun [i.e., the prayers] and what is meant by a single day is to make up five prayers.

[540] Because if it went beyond a single day, then the difficulty in making up the prayers is obvious.

[541] This is from legal preference (*istiḥsān*) and the analogical deduction gives that he would not make up the prayer if the fainting is total for the time of a complete prayer because his incapacity was certain. The reason for the legal preference is that if the time becomes extended then the number of prayers missed will be too numerous and be troublesome to make up, but that if the time is short, there is no trouble. Numerous prayers is in the case where it is for more than a day and a night because that is comprised in the definition of repetition.

[542] And of Abū Yūsuf. According to Mālik and ash-Shāfiʿī he is absolved of the need to make up prayers whether few or many, and according to the Ḥanbalis he must make up the prayers whether they are few or many.

[543] i.e., he goes back and forward in his doubt, without either possibility appearing weightier because in that case along with opinion in which case he bases himself upon that in our view, as is in *al-Mirqāh*. Al-Fāḍil al-Laknawī said, “The doubt does not mean going back and forward equally between the two positions, but rather unqualified hesitation between the two choices. Doubt about the prostration is to be unsure as to whether one had prostrated or not, and doubt about the *tashahhud* is as to whether one said it or not, in which cases he prostrates and does the prostration of forgetfulness and says the *tashahhud* and says the prostration of forgetfulness.”

[544] The ruling concerning a complete *rakʿah* is different from the ruling concerning this forgetfulness.

[545] The two prostrations.

[546] They repair, because the *Sharīʿah* instituted them to repair the forgetfulness.

[547] i.e., whatever occurred in the prayer of addition or omission because of doubt or forgetfulness, and prostration is not required except for the omission of something incumbent (*wājib*) or delaying it, or delaying an essential element (*rukn*) or doing it early or repeating it, or altering something incumbent (*wājib*).

[548] Derived from a word meaning “dust” meaning that they humiliate *shayṭān*, or it is derived from the expression “May Allah make his nose cleave to the dust.”

[549] Ibrāhīm an-Nakhaʿī.

[550] For repetition of what I was in doubt about and then doing two prostrations for forgetfulness at the end of the prayer.

[551] For the action and for a doubt which was not clearly established and did not oblige the person who wanted to leave out the two prostrations of forgetfulness, because in this way the prayer of someone who is in doubt is only completed. And if he does not prostrate for forgetfulness then a doubt will occur as to whether he had done it completely or not. So the prostration for forgetfulness is more fitting in order to emerge from this doubt.

[552] Out of scrupulousness. – Trans.

[553] Abū Yūsuf narrated it on p.36.

[554] Because of his saying ﷺ,”If any of you are in doubt about his prayer as to how many he has prayed, let him begin the prayer again.”

[555] Because of his saying ﷺ, “If any of you are in doubt in his prayer, then he should endeavour to find what is correct.” And if he has no idea he should base himself upon what he is certain of because of his words ﷺ, “Whoever doubts concerning his prayer, as to not knowing if he has prayed three or four, bases himself on the lesser number.”

[556] Abū Yūsuf narrated it on p.37.

[557] Because doing extra prostrations without the reason of forgetfulness means that there is a shortcoming in the prayer which because of that becomes disapproved to the degree of being *ḥarām*. It is similar with the ruling concerning something added into it of the same species but not out of forgetfulness, and it does not invalidate the prayer.

[558] Doing them time and again and repeating them without any overriding necessity and not for the reason of forgetfulness. Prostration of forgetfulness is not required of such a one, but his prayer is disapproved and he is required to repeat it.

[559] In our view, the prostrations of forgetfulness take place after the *salām* because of his saying ﷺ, "For every forgetfulness there are prostrations after the *salām*." Ash-Shāfiʿī said that one prostrates before the *salām*, and Mālik that if one has left something out it is done before it because it is for the purpose of rectifying it, and if it is by way of addition then it is done after it to abase *shayṭān*.

[560] Abū Yūsuf narrated it on p.36.

[561] If a doubt occurs for the first time, his prayer is invalid and he must repeat it, but if it becomes a regular occurrence, he must exert himself and act according to his predominant opinion. If he doesn't have a view, he must act according to the least amount, and to begin again from the beginning is the most appropriate thing in every case.

[562] It means that if you have a doubt about two matters and something of the two is agitated in your heart then know that the more expansive of them is closer to the truth and act by it, because the heart of the believer is a mirror for the recognition of the truth.

[563] Do not pay attention to it in order to sever the whispering of *shayṭān*.

[564] The narrations from him differ, and it is narrated of him that he disapproved of it.

[565] One says, "*yarḥamuka'llāh*" (may Allah be merciful to you), in responding to the person who sneezes.

[566] Abū Yūsuf narrated it on p.73.

[567] Since it is contrary to the text of the *Sharīʿah* which stipulates that one must listen to the *khuṭbah* and be silent for that purpose. Speaking during the prayer is forbidden which is shown clearly by hadith traced directly back to the Prophet ﷺ.

[568] Since responding to the person who sneezes is comprised under the ruling that prohibits speaking while the imam is delivering the *khuṭbah*.

[569] Because of the words of the Messenger of Allah ﷺ, "If you say to your companion 'Be quiet and listen!' while the imam is delivering the *khuṭbah* then you have spoken vainly." Thus, when he regarded the command to be quiet as something spoken in vain, even

though it is a command to do the right thing and to do that which is obligatory, then it is more appropriate to restrain other things.

[570] The Prophet ﷺ had regarded “May Allah have mercy on you,” in response to the person who sneezes as a part of people’s speech.

[571] Since the greeting of peace is also speech because in it there is address and encounter with the other.

[572] Apparently the pronoun in “he said” refers to Ibrāhīm, but one’s tasting is that the pronoun is that of Ḥammād, and “he said” is in the sense “he asked” meaning that Ḥammād asked Ibrāhīm about a man who greets a person in prayer.

[573] One does not greet a person in prayer nor does the person in prayer return the greeting and if he does return the greeting verbally, his prayer is invalid because returning the greeting is a part of people’s speech. Even if signalling does not invalidate the prayer, yet it is better to avoid it.

[574] Abū Yūsuf narrated it on pp.25-26.

[575] It is probable that it not being valid in his view is because one is not following the imam, because if one finishes before the imam has said the *salām* one loses the fact of following. Otherwise, what is narrated of an-Nakhaʿī is that if one sits for the length of the *tashahhud* then one’s prayer is complete as is narrated in the *Āthār* of Abū Yūsuf.

[576] Since the last sitting is obligatory and is the last obligation of the prayer, and in our view nothing remains but the *salām* which is a necessity (*wājib*) so that thus if one has done the prayer with its essential elements it is complete and is valid with respect to being quit of one’s responsibility.

[577] Because the Prophet ﷺ urged them to do the prayer and forbade them to leave it before he left the prayer.

[578] It is probable that it was Muʿādh ibn Jabal ؓ as is in the narrations.

[579] Along with completing it such that none of the necessities are missed, because “lightening it” pertains to recitation and to length of standing.

[580] The necessary consequence of this is that if there is not among them those characterised with any of these aforementioned attributes or they are limited in number and are contented with one’s lengthening the prayer then there is no harm in doing that because the cause [of its being disliked] has been removed.

[581] It is the verdict of most of the *ʿulamā’*.

[582] In every *rakʿah*.

[583] Because few are able to do that in general and to do it continually, and so he said, “Who is able to do this?” and “Glorious is Allah!” is an explanation of his saying, “He was astonished.” When the man said that he was able, he permitted him that.

[584] Standing for a long time. *Qunūt* is used for supplication, standing, humility and abasement, silence, stillness, obedience, prayer, worship and standing for a long time.

[585] It is narrated from Muḥammad in *al-Mujtabā* that a great deal of bowing and prostration are better because standing was instituted as a means to bowing and prostrating.

[586] Because of a genuinely strong excuse, he sought refuge with that, and this is valid when there is little time left or because something important happens. Otherwise, he used to recite long sūrahs in the prayer of *Ṣubḥ*.

[587] This happened before the arrangement of the sūrahs and before discussion of its permissibility, and it was before the ordering arrangement of ʿUthmān. Imam Muḥammad did not contradict it but said, “We adhere to that,” taking his position on the length of the recitation and vice-versa. The order of recitation of the surahs in our view is recommended, and in one narration it is held to be incumbent (*wājib*) so that to do contrary is disapproved except with a valid excuse.

[588] Abū Yūsuf narrated it on p.47 with a slight difference.

[589] He ﷺ had recited the two sūrahs of seeking refuge in the prayer of *Ṣubḥ*.

[590] Because residence is a condition of safety and stillness, and travel is a condition of haste.

[591] In *al-Jāmiʿ* there is, “Abū Ḥanīfah said, ‘Mūsā ibn Muslim narrated to us…’” without the intermediary of Ḥammād and that is *ṣaḥīḥ*.

[592] If you do not know when you will travel. Abū Ḥanīfah and his companions said that shortening the prayer is incumbent obligatorily and to do the full prayer is not permissible for the traveller. [The saying] “shortening the prayer is remissness,” is of no force because of the words of ʿĀ’ishah رضي الله عنها, “The prayer was obligated as two *rakʿahs* while travelling and while resident, and then was increased in the prayer of residence, and the travelling prayer was confirmed [as two *rakʿahs*].” Ash-Shāfiʿī and Mālik said that both shortening the prayer and completing it are valid but that shortening it is better, and in one verdict that completing the prayer is better and that shortening it is a shortening for ease.

[593] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.2, p.211.

[594] Al-Bājī said, “ʿUmar did not take up residence in Makkah because the emigrants were prohibited to take up residence there. As for the resident following the traveller in prayer it

is valid both in the time and outside of the time because the prayer of the traveller in both cases is one, and the sitting is obligatory for him and voluntary for the one who follows, and the follower doing an optional prayer behind someone doing an obligatory prayer is valid with respect to the entire prayer, so it is thus for a part of the prayer.”

[595] Abū Yūsuf narrated it on p.30.

[596] Because his obligation has changed to four because he is following just as it would change with the intention of taking up residence.

[597] *maḥshar* is a place in which people gather, or it is a verbal noun with the sense of exile from the homeland going out with a people to fight. So it means, “Don’t let this going out of yours from your homeland deceive you about your prayer so that you shorten it because of being deceived without there being due cause for shortening it.”

[598] Orchards, agricultural land, the village.

[599] Abū Yūsuf narrated it on p.74.

[600] The Arabic word *ahl* although meaning family is often used to refer to a wife. – Trans.

[601] So if he has family there and he made it her original home, then when he enters it he does the full prayer because a person may have two homes.

[602] He asked about the least distance which is considered travel.

[603] As-Suwaydā’ is a place forty-six miles outside of Madīnah.

[604] *Qawāṣid* is the plural of *qaṣd* which means moderate.

[605] Its legality is clearly established in the Book and the Sunnah and in the practice of the Companions during war.

[606] According to us it is valid merely because of the presence of the enemy, but according to the Shāfiʿīs ascertaining the existence of fear is a precondition.

[607] i.e., wants to lead them in prayer.

[608] From one of the four *rakʿah* prayers if they are travellers [hence, performed as two *rakʿahs*] or it is Jumuʿah.

[609] Walking because if they mount while leaving their prayer is invalidated.

[610] Facing the enemy.

[611] Without recitation.

[612] With recitation.

[613] Abū Yūsuf narrated it on p.75.

[614] So they caught the prayer and the person who catches the prayer when performing it himself is as if he is behind the imam and so in our view does not recite.

[615] Because they came late and the latecomer when he performs the prayer himself is independent and performs it with [the supplication of] praise, seeking refuge and recitation.

[616] This is the judgement concerning not being able [to face the *qiblah*] because of His words, exalted is He: “*so wherever you turn, the Face of Allah is there*” (Sūrat al-Baqarah: 114). The judgement is agreed upon in the case of supererogatory prayers.

[617] Because it is not established in the *Sharīʿah* that one may abandon either of them in this condition.

[618] Abū Yūsuf narrated it on p.76.

[619] Because the believer encounters in his action that which blemishes him and which is contrary to pure sincerity, but it does not necessarily follow from his fear that he has really fallen out of *ikhlāṣ* but rather that is a heightened state of scrupulousness and *taqwā*.

[620] “Because the hypocrite acts for desire of reputation and for showing off, not desiring the Face of Allah, so you are not a hypocrite since you have prayed where no one saw you but Allah, and that is the sign of the believer.” Abū Mūsā probably meant by this answer to cut off the chain of whisperings which arise in the breast.

[621] It is the response to the person who sneezes and its meaning is to supplicate for blessings and good for him.

[622] And in another narration: “*yarḥamuka’llāh*” (may Allah have mercy on you).

[623] There has also been narrated, “May Allah guide you and put right your state.” Whichever one says it is valid, and one discharges by that the rights of one’s Muslim brother.

[624] i.e., if they attend the Jumuʿah mosque and pray the Jumuʿah along with the imam that is valid for them, since the fact that the Jumuʿah is not obligatory for them is in order to do away with any hardship, but they undertook to do it, and thus they become like the traveller who fasts, and it discharges the obligation of the time for them.

[625] Abū Yūsuf narrated it on p.73.

[626] About the *khuṭbah* on the day of Jumuʿah, whether it is standing or seated.

[627] Because in it there as an explanation of the form of the *khuṭbah* of the Prophet ﷺ which was done standing.

[628] Abū Yūsuf narrated it on p.72.

[629] Abū Ḥanīfah said, “It is valid seated and standing is not incumbent.” Mālik said, “It is incumbent (*wājib*) that it be done standing and if he abandons it he has done wrong and

the Jumuʿah is valid.” Ash-Shāfiʿī said, “The *khuṭbah* is not acceptable from someone who is able to stand unless he is standing for the two *khuṭbahs*.”

[630] Because of the hadith of Ibn ʿUmar, “The Prophet would give a *khuṭbah*, then sit, then stand again just as you do today.” (The group narrated it.)

[631] This is what is transmitted, and it cannot be hidden from you that the *āyah* purely indicates remembrance.

[632] The Sunnah of the *ʿĪd* prayer is that it should be done at the general place of prayer (*muṣallā*) in the countryside (*ṣaḥrā’*) and it is one of the rites appointed by Allah as signs (*shaʿā’ir*).

[633] Mālik said the same; he does not fundamentally have to make up the prayer. According to our people it is the same; he does not make it up if he misses the prayer with the imam. Ash-Shāfiʿī said that he prays alone just as he would have done with the imam, but as for if he misses doing it with the imam, he prays it with the group on the second day.

[634] Abū Yūsuf narrated it on p.59.

[635] So one does not do the *ʿĪd* prayer individually, neither at the place of prayer nor in one’s house.

[636] The *kunyah* of Ibn Masʿūd.

[637] It is the transmitted sunnah and the practice (*ʿamal*) of the community.

[638] The opening *takbīr* and the *takbīr* for bowing, and the remaining three are extra.

[639] Three extra and the *takbīr* for bowing.

[640] Saying the *takbīrs* in the first *rakʿah* before the recitation and in the second *rakʿah* after the recitation.

[641] Two *khuṭbahs*, after the prayer, analogously with the Jumuʿah.

[642] Abū Yūsuf narrated it on p.59.

[643] *duʿā’* here meaning that he should give the *khuṭbah*, because *duʿā’* is also used to mean *khuṭbah*.

[644] And some people of knowledge took that position.

[645] Abū Yūsuf narrated it on p.59.

[646] It is disapproved in our view as is in *al-Hidāyah*, and it is narrated of ʿĀ’ishah that she said, “If the Messenger of Allah had seen what women have innovated he would have forbidden them to come to the mosque just as the women of Banī Isrā’īl were forbidden.”

[647] Because this is the day of Allah’s hospitality and so it is not permitted to fast on it.

[648] On that day.

[649] Except on one issue.

[650] Because fasting on the *ᶜĪd* after it is clearly established that the moon has been seen is not permitted, and so it is required that one break the fast.

[651] As is the judgement of the hadith which an-Nasā'ī, Abū Dāwūd and others narrated, in which there is, "So the Messenger of Allah ﷺ ordered that they break their fast and go out to their *ᶜĪd* the next day."

[652] It is recommended.

[653] Something sweet, as is firmly established in the hadith.

[654] It is recommended that the first thing one eats be from the meat of the sacrifices, which are Allah's hospitality, but if one eats before the prayer it is not disliked.

[655] Abū Yūsuf narrated it on p.59.

[656] It is incumbent in the well-known position of the *madhhab*.

[657] The days of *tashrīq* are the three days known as the days of drying the meat in which the meat of sacrifice can be dried, after the first day of the *ᶜĪd* known as the day of slaughter: *an-naḥr*. – Trans.

[658] Abū Yūsuf narrated it on p.60.

[659] He adhered to his verdict adhering to the lesser because saying the *takbīr* aloud is an innovation, so adhering to the verdict of ᶜAlī is adhering to the more numerous since that is being on the safe side with respect to acts of worship.

[660] Know that there are two positions about the prostrations in the Qur'ān: they are either sunnah or meritorious acts both of which are well-known verdicts with the Mālikīs. According to the Shāfiᶜīs they are a strongly confirmed (*mu'akkadah*) sunnah, and the Ḥanafīs say that they are incumbent (*wājib*) because of His words, exalted is He, "*Prostrate to Allah*," (Sūrah Fuṣṣilat: 36) and the unqualified command is for something which is incumbent (*wājib*). There are fourteen prostrations which we and the Shāfiᶜīs agree on except that according to him (ash-Shāfiᶜī) there are two prostrations in as-Sajdah and in his view none in Ṣād of those which are obligatory. The people of Madīnah say that there are no prostrations in the [shorter] sūrahs [known as] *Mufaṣṣal*.

[661] Abū Yūsuf narrated it on p.40.

[662] And we are commanded to emulate them because of His words, exalted is He, "*They are the ones Allah has guided, so be guided by their guidance*." (Sūrat al-Anᶜām: 91)

[663] The fact that it is out of gratitude does not negate it being incumbent, because all obligations are only incumbent as gratitude for the uninterrupted and continuous succession of blessings.

[664] It means obedience, supplication and standing, but the well-known meaning is supplication.

[665] It is also narrated of him as a hadith which he ascribed directly to the Prophet ﷺ (*marfūʿ*) from ʿAlqamah from Ibn Masʿūd from Umm ʿAbdullāh who said, “I saw the Messenger of Allah ﷺ saying the *qunūt* in the *witr* before bowing.” There is from Ibn ʿAbbās who said, “The Prophet ﷺ did the *witr* with three (*rakʿahs*) and said the *qunūt* in them before bowing.” Abū Nuʿaym narrated it in *al-Ḥilyah*.

[666] This refutes those who say that one only says the *qunūt* in the last half of Ramaḍān.

[667] Abū Yūsuf narrated it on p.70.

[668] This was the verdict of Abū Ḥanīfah, and there is in *al-Badā’iʿ* that “According to the two of them [Abū Yūsuf and Muḥammad] it is sunnah and there is discussion about it as there is discussion about the *witr* itself,” but the outward sense of that which is in *Gharar al-afkār* is that there is no disagreement that it is incumbent in our view because he said, “The *qunūt* is incumbent in our view and recommended according to Mālik, and according to ash-Shāfiʿī it is one of the circumstantial issues [the ruling will differ according to different situations. – Ed.] and according to Aḥmad it is sunnah. The proof that it is incumbent is the active perseverance in saying the *qunūt* and the usage of the imperative sense in the hadith of al-Ḥasan ibn ʿAlī.

[669] “In the month of Ramaḍān and at other times, before bowing,” and ash-Shāfiʿī differed with us on all three points, and said, “One says *qunūt* in the prayer of *Fajr* in the second *rakʿah* after bowing and one does not say *qunūt* in the *witr* except in the second half of Ramaḍān after bowing. [The Mālikis say it in the second *rakʿah* of *Fajr* before or after bowing. – Trans.]

[670] Saying the *takbīr* in the *qunūt* is also incumbent.

[671] Abū Yūsuf narrated it on pp.69-70.

[672] Without a calamity which was an occasion to do so.

[673] Explained in this way because of the difference of opinion about it, for Imam ash-Shāfiʿī said that the *qunūt* in the prayer of *Ṣubḥ* was an enduring sunnah in the past, but with us it is abrogated in the *Ṣubḥ* and it is only done in the *witr* throughout the year. Az-Zuhrī gave the verdict that it is abrogated, and Abū Bakr, ʿUmar, ʿUthmān, ʿAlī, Ibn ʿAbbās, Ibn Masʿūd, Ibn ʿUmar, ʿAbd ar-Raḥmān ibn Abī Bakr and Ibn az-Zubayr would not say the *qunūt* and did not think that the *qunūt* should be said in [obligatory] prayers, and Ibn ʿUmar used to repudiate people saying *qunūt*, and Aḥmad and Isḥāq gave that verdict.

[674] Abū Yūsuf narrated it on p.74.

[675] Jābir ibn Zayd al-Azdī.

[676] In the last *rakʿah* of the prayer of *Fajr*, as is in *al-Jāmiʿ* and the *Āthār* of Abū Yūsuf, “Your imam in Iraq stands in the last *rakʿah…*” meaning, “Does your imam stand in the last *rakʿah* silently without reciting Qur’ān and without bowing, but on the contrary saying *qunūt*? And that is contrary to the principles of the prayers and ought not to be done.” In it Ibn ʿUmar repudiated those who said the *qunūt* in the second *rakʿah* of *Fajr*.

[677] By that Ibn ʿUmar spoke on the issue of *qunūt* in the prayer of *Fajr* as is evident in the other narrations.

[678] That which is clearly established of the Prophet ﷺ concerning the *qunūt* in the prayer of *Fajr* was *qunūt* in the case of a calamitous event as Ibn Ḥibbān narrated in the wording, “He would not say *qunūt* in the prayer of *Ṣubḥ* except to supplicate for some people or against some people,” and in another narration, “The Prophet ﷺ said the *qunūt* for a month supplicating against one of the tribes of the Arabs, then later he gave it up in the prayer of *Ṣubḥ*.

[679] Abū Yūsuf narrated it on p.70.

[680] Abū Yūsuf narrated it on p.71.

[681] It is as if he were saying plainly that it was the *qunūt* of a calamitous event, and that is the verdict of Abū Ḥanīfah ؒ, because the *madhhab* of the people of Kufa concerning the *qunūt* was derived from the action of ʿAlī ؓ and the *madhhab* of the people of Shām (present-day Syria, Lebanon and Palestine) was derived from the action of Muʿāwiyah ؓ, and “My Companions are like stars, whichever of them you emulate then you will be guided.”

[682] The *ʿulamā’* differ about the prayer of women in a group and a woman acting as their imam. Ash-Shāfiʿī took the position that it is recommended, and that is the verdict of Aḥmad. The well known position of the school of our people is that the prayer of women in a group is disapproved, but al-Fāḍil al-Laknawī inclined to seeing it as permissible without being disapproved. Shaykh Mahdī Ḥasan chose that position in his *Qalā’id al-azhār*.

[683] In *tarāwīḥ* as is apparent. ʿAbd ar-Razzāq narrated from ʿĀ’ishah ؓ that she led them in prayer and stood among them in the obligatory prayer as is in *Āthār as-sunan*.

[684] Abū Yūsuf narrated it on p.41.

[685] Meaning that what is more fitting for woman is that she should not lead the prayer because she is not created to go in the lead and for imamate if one takes into account the fundamentals of the creation.

[686] Because stepping forward includes a degree more of exposure, and being in the middle of the row is a veil for her.

[687] That was the verdict given by ʿAṭā’ and ash-Shaʿbī in *al-Hidāyah*, “And if a woman, she sits on her left buttock and puts her legs out on her right side because it is a [kind of] veil for her.”

[688] Abū Yūsuf narrated it on p.31.

[689] Ibrāhīm meant that the head-covering and veil are not an incumbent part of the slave woman’s dress because her head is not regarded as a private part (*ʿawrah*) and she is governed by the same rules as a man regarding covering her back and abdomen. Even if she prays for a very long time without head-covering and with her head exposed, her prayer is valid and she does not have to repeat it, even if she becomes aged or becomes a hundred years old.

[690] Abū Yūsuf narrated it on p.29.

[691] Because of the necessary ambivalence involved when they leave the house for necessities, since ordinarily foolish people are vulgarly familiar with slave women, and ʿUmar ﵁ feared that the matter become confused and that foolish people become familiar with free women so that the trouble caused would be even worse. And it is not incumbent for her to be like that [with her head covered] at the time of doing the prayer.

[692] In clothing when leaving the house.

[693] We do not regard that as incumbent, and it is not requisite for her, but this does not negate that it can be recommended particularly in this time.

[694] And needs to show that she is in prayer.

[695] Striking one hand on the other, and in *al-Hidāyah* there is, “She should strike with the outward parts of the fingers of the right hand on the palm of the left hand.”

[696] Because in the prayer one is occupied and should not do that which negates intimate discourse [with the Lord] and humility in the prayer, but if she does it, it does not invalidate her prayer.

[697] *kusūf:* eclipse, means lexically to alter and become black, so that the eclipse of the sun means that it becomes black and its rays disappear. What is best known among the people of *fiqh* is to choose *kusūf* for solar eclipse, and *khusūf* for lunar eclipse, and al-Jawharī claimed that it is the most tasteful usage.

[698] In order to repel the delusion that it was because of the death of Ibrāhīm. Thus the *khuṭbah* was from a chance occurrence and not by way of any *Sharīʿah* purpose, and it is for

this reason that in our view and that of Mālik and Aḥmad there is no *khuṭbah* during an eclipse. Ash-Shāfiʿī said that a *khuṭbah* is recommended.

[699] Signs indicating the oneness of Allah and His tremendous power, and in this there is refutation of that which the people of Jāhiliyyah used to believe that the stars cause things on the earth. So the Prophet ﷺ informed us that this is a spurious belief, and that the sun and moon are two creations subject to Allah, neither of which has authority over anything else and no power to repel anything from themselves.

[700] With the form of ordinary supererogatory prayers in every *rakʿah* of which there is a single bowing and two prostrations. This is supported by what is narrated by an-Nasā'ī, who added, "as you pray," and Ibn Ḥibbān, who said, "two *rakʿahs* like your prayer." Ash-Shāfiʿī, Mālik and Aḥmad said that there are two bowings in each *rakʿah*.

[701] Abū Yūsuf narrated it on p.55, and al-Bukhārī under "the eclipse" in the chapter on "the prayer during the eclipse of the moon," and an-Nasā'ī in the book on "the eclipse," the chapter on "a type of eclipse prayer."

[702] *rakʿah* in the sense of *rukūʿ*: bowing.

[703] But not for the lunar eclipse.

[704] The *sultan* or his deputy or the imam who has been appointed to deliver the *khuṭbah* for the Jumuʿah.

[705] Because the Companions and the Followers did not pray them in their mosques unless in the Jumuʿah mosque and unless the greater imam [the *sultan*] orders that, in which case it is valid for them to pray it in a group with the imam of their area leading them in their mosque.

[706] Abū Ḥanīfah, Mālik and ash-Shāfiʿī said that one recites secretly in the prayer of the solar eclipse but aloud in the prayer of the lunar eclipse. Abū Yūsuf, Muḥammad and Aḥmad said that one recites aloud in both of them. Aṭ-Ṭaḥāwī chose this latter.

[707] This is contrary to what is in *Kitāb al-ḥujjah* and in aṭ-Ṭaḥāwī and most of the books of *fiqh*, and in this there is an indication that the difference is about what is the best.

[708] Because of the impracticability of gathering at night or for fear of *fitnah*. There is in *al-Baḥr* from al-Mujtabā, "It is said that praying in a group is permissible according to us but that it is not sunnah."

[709] Ash-Shāfiʿī said that one prays at any time both those in which prayer is forbidden and those in which it is not forbidden.

[710] One makes supplication until the sun is uncovered.

[711] *jināzah* is a bier and *janāzah* is the deceased.

[712] The well-known tree i.e., lotus leaves (*zizyphus spina christi*). Water boiled with the lotus leaves or saltwort (*ushnan: salsola kali*) is very effective in cleansing. If there are no lotus leaves or saltwort then clean water.

[713] It is not permissible to follow funerals with fire because it is one of the acts of the *jāhiliyyah*, and of Christians, Zoroastrians and Hindus.

[714] Wrapping three cloths for shrouding men and five for women is not required (*wājib*) but on the contrary if one wraps men with two cloths it is also permissible.

[715] Abū Yūsuf narrated it on pp.76-77.

[716] Two garments, and it is not an odd number, so one knows that an even number is also permissible.

[717] Abū Yūsuf narrated the like of it on p. 79 from Abū Ḥanīfah from Ḥammād from Ibrāhīm.

[718] In the *Āthār* of Abū Yūsuf there is, "He asked Ibn ʿUmar…" and in one copy "I asked him…" in the first person singular.

[719] Abū Yūsuf narrated it on p.79.

[720] It is the verdict of Abū Ḥanīfah and according to us it is recommended.

[721] In the time of the Companions and the Followers.

[722] A yellow plant with a fragrant smell which when used as a dye gives a yellow to red colour. It is said to be a member of the turmeric family or similar to it.

[723] Deceased men.

[724] Abū Yūsuf narrated it on p.77.

[725] This deceased person was a woman.

[726] This refers to untangling the hair, but some have said it means combing it with a comb.

[727] As if ʿĀ'ishah deplored untangling or combing the hair of the deceased, and that it does not need that, and regarded it as being the same as taking by the forelock.

[728] Abū Yūsuf narrated it on p.78.

[729] Abū Yūsuf narrated it on p.78.

[730] She died among men without them having any other women there to wash her.

[731] i.e., if there are no women with them, her husband should wash her. Otherwise, women are specifically to wash [other women], and ash-Shāfiʿī, Mālik and Aḥmad inclined to that view.

[732] Since she is his wife up until the expiry of her *ʿiddah*.

[733] Because of the expiry of the marriage and so it is improper and she has become as if foreign to him.

[734] Abū Yūsuf narrated it on p.78 from Abū Ḥanīfah from Ḥammād from Ibrāhīm that said, “A woman gives her [deceased] husband a *ghusl* but a man does not give his [deceased] wife a *ghusl*.”

[735] To the guardians of his wife when she died, and she was probably Umm Kulthūm the daughter of ʿAlī ibn Abī Ṭālib. He meant, “We had more right than you to enjoy sexual intercourse with her, look at her, touch her, and spend upon her and other matters of daily living which became duties for us because of marriage.”

[736] Because by her death she had become foreign to him and the authority of marriage had been lifted.

[737] This is sufficient shrouding among us, and it is an *izār*, a *lifāfah* (a wrap), and a large outer covering. The sunnah for shrouding a woman is five cloths, but the discussion here is of what is permissible, not of what is sunnah or the best.

[738] Abū Yūsuf narrated it on p.77.

[739] Obviously he is not impure because the *mu’min* does not become impure in life or in death, so there is no need for *ghusl* for whoever washes him nor is there a need for *wuḍū’* for whoever touches him or carries him. Doing *ghusl* because of washing the dead is recommended according to us.

[740] Abū Yūsuf narrated it on p.78.

[741] Because the washings which come off the deceased are impure, as he said in *al-Baḥr*. The soundest position is that if there is nothing impure on the deceased’s body then the water has been used but it does not become impure, except that Muḥammad considered the water impure since the washings ordinarily are not free of impurity.

[742] Abū Yūsuf narrated it on p.78.

[743] ʿAlī ibn Abī Ṭālib did not mean by this order that *ghusl* is required, but he meant that it is recommended, and Imam Muḥammad interpreted it thus because of the hadith, “Your dead die in a state of purity, so it is sufficient for you to wash your hands,” (Al-Bayhaqī) and because of the hadith, “We used to wash the dead and some of us would take a *ghusl* and some of us would not” (Al-Khaṭīb).

[744] A man who is not the legal guardian and who fears that he will miss the funeral prayer, i.e., all of the *takbīrs*, should do *tayammum* and do the prayer. If he has some hope that he can catch some [of the *takbīrs*] if he does *wuḍū’*, he should do *wuḍū’* and not *tayammum* since it is possible for him to discharge the remaining ones by himself.

[745] And similarly a man who is in need of a *ghusl* because of sexual relations.

[746] Abū Yūsuf narrated it on p.80.

[747] The Sunnah of the Messenger of Allah ﷺ.

[748] Four men lift it up on their upper backs and shoulders, not on their necks, each one of the four carrying it and walking ten steps with it because of the hadith, “Whoever carries a bier for forty steps it will expiate forty major wrong actions for him.”

[749] An additional extra. It is a due upon each Muslim that he carries it one time by each of its four corners for ten steps. If he does it more than that and carries it more times, then that is an increase in reward and a supererogatory act for him. If he does not carry it again after that, he will not be taken to task for it.

[750] Abū Yūsuf narrated it on p.81.

[751] Because the funeral prayer is supplication, and the Fātiḥah has the sense of supplication, so that if one recites it with the intention of supplicating it is permissible. Ash-Shāfiʿī said that one recites the Fātiḥah over the bier.

[752] Different supplications are narrated, so that whatever one supplicates with is fine.

[753] With the first *takbīr*. The four *takbīrs* are integral elements (*arkān*) and each *takbīr* stands in place of a *rakʿah*. One raises one’s hands in the first alone, but the imams of Balkh said to do that in each one, and that is the verdict of the three Imams.

[754] After the first *takbīr*.

[755] After the second *takbīr*.

[756] After the third.

[757] Yaḥyā ibn Dīnār.

[758] They have more right according to us, after the *qāḍī*, who comes after the legal guardian, the imam and the *sultan*.

[759] Meaning that if one is satisfied with them to lead the obligatory prayers, then it is more appropriate that one be satisfied with them for the funeral prayer because it is a communal obligation (*farḍ ʿala’l-kifāyah*) contrary to the obligation [which is personal].

[760] Abū Yūsuf narrated it on pp.79-80.

[761] Which necessarily requires that the legal guardian has more right than the imam of the locality.

[762] Because the person who gives up what is recommended is not taken to task.

[763] The Companions and the Followers.

[764] The source in this is that the Messenger of Allah ﷺ and the Companions after him used to show preference to the people of Badr and Banī Hāshim over all other people, and they would say the *takbīr* for the people of Badr six, seven or eight times, and for Banī Hāshim five or six times and four times for everyone else, and then it was confirmed as being four.

[765] People’s disagreement about that.

[766] Meaning “They are still near to the time of *kufr* and lacking knowledge of all of the rulings of Islam and its judgements, and so your disagreement over matters such as this will harm them and generate whisperings in their breasts, so avoid this and come to an agreement on one matter.”

[767] So that the extra *takbīr* were abrogated by this consensus.

[768] Abū Yūsuf narrated it on p.79, and al-Bayhaqī in *as-Sunan al-kubrā*, vol.4, p.37.

[769] Abū Yūsuf narrated it on p.79.

[770] Because the side of the *qiblah* is exalted and so it is more appropriate to enter him from this side.

[771] Clarification of “from the side of the *qiblah*” i.e., from the direction of the place in which the prayer is being done facing the *qiblah*.

[772] *Sall* is to draw something out of something by pulling it and removing it, such as drawing a sword out of a scabbard. The form of “drawing in” is that the body is placed to the right of the *qiblah* with the feet pointing lengthwise towards the grave and then the body is drawn into the grave feet first and placed in the grave with the head being placed last.

[773] Done because of the weakness of their salty marshland so that the *laḥd* [niche in which the body is placed] should not collapse when the body is placed on it.

[774] Abū Yūsuf narrated it on p.82 and p.84.

[775] An even or odd number of men may enter the grave with the deceased according to necessity.

[776] One single corpse after another [from the grave in the direction of the *qiblah*] so that the imam can be level with all of them.

[777] A second possibility; they are all laid in a single row [with the imam in the middle of the row] rather than in rows, and those with higher merit are given precedence over those with less. The intention is that both forms are permissible, but to do the prayer individually for each person is more fitting than combining them, as is in *ad-Durr al-mukhtar*.

[778] Abū Yūsuf narrated it on p.84.

[779] Abū Yūsuf narrated it on p.84.

[780] Abū Yūsuf narrated it on p.83.

[781] According to us it is permissible without any sense of disapproval.

[782] Such that he would not be counted as walking alone.

[783] Abū Yūsuf narrated it on p.81.

[784] There is to be no severity, and there is no harm in people doing it.

[785] Because of the hadith of the Messenger of Allah ﷺ, “The Messenger of Allah ﷺ only walked behind the deceased until the day he died.”

[786] Because that is not free of causing harm to people.

[787] Abū Yūsuf narrated it on p.82.

[788] i.e., close to it without disappearing out of view of it.

[789] Abū Yūsuf narrated the like of it on p.82.

[790] The form of sitting or squatting called *iḥtibā’* in which one wraps a cloth around the shins and the back.

[791] Abū Yūsuf narrated it on p.82.

[792] i.e., do not remain standing, but if anyone stands until it is dug, there is no harm in it.

[793] Abū Yūsuf narrated it on p.81.

[794] And if one does not sit down after the bier has been put down from off the shoulders of the men, there is also no harm.

[795] Before it is put down.

[796] Abū Yūsuf narrated it on p.81.

[797] It is contrary to what is more appropriate, and if he is appointed then he has to bury his *kāfir* relative, shroud him and wash him without doing it according to the Sunnah.

[798] Because he is one of the people who are astray, so that mercy does not descend at his funeral, and so will not be with it in following close to it.

[799] Which is to build up the grave as the hump of a camel.

[800] In this is an indication that the grave was not plastered nor built up with baked bricks and gypsum because that is an aspect of refraining from doing what would injure one in one’s *dīn*.

[801] Abū Yūsuf narrated it on p.80 in an abridged form.

[802] Since building it in a square shape is one of the distinctive signs of the rejectionist shīʿah (*rāfiḍah*) and putting a flat roof on it is a sign of the people of innovation and thus deplored.

[803] In the earliest age and in the time of the Companions, meaning that that had ready currency in that time.

[804] Abū Yūsuf narrated it on p.81.

[805] Since adding something to it has the same rank as building.

[806] Imam Muḥammad deplored making a mosque at the grave so that this would not draw people towards many corruptions as is witnessed in this epoch. Taking the grave as a mosque is deplored by the reasoning of what is more appropriate to the degree of being deplored to the extent of being almost *ḥarām* and not permitted.

[807] If there is no softness and crumbliness in the ground in which case there is no harm in using bricks.

[808] This is used in the sense of it being recommended, i.e., it is recommended to sprinkle water on it in order to safeguard its soil from becoming swiftly obliterated.

[809] Most probably Abū'z-Zubayr ibn Tadrus al-Makkī narrating from Jābir ibn ʿAbdullāh.

[810] Abū Dāwūd narrated it in a connected fashion in the book on "funerals," in the chapter on "building over the grave," and at-Tirmidhī in the book on "funerals" in the chapter on "what has been narrated about the abhorrence of rendering graves with gypsum and building on them," and an-Nasā'ī in the book on "funerals" in the chapter on "additions to graves," and Ibn Mājah in the book on "funerals" in the chapter on "what has been narrated on the prohibition of building over graves."

[811] Because a Muslim's causing harm to a grave or expressing contempt for it is a major wrong action.

[812] Abū Yūsuf narrated it on p.82.

[813] In addition to having heard it by the way of Ḥammād.

[814] Abū Yūsuf narrated it on p.80 from Ibrāhīm and ʿAwn.

[815] Since marriage ceased and the husband has become as a foreigner with respect to her, whereas the father has the rights of his blood relationship and his guardianship because of his words, "You and your property belong to your father," and that is the verdict of Abū Ḥanīfah and the verdict of Mālik and of ash-Shāfiʿī in one verdict.

[816] Abū Yūsuf narrated the like of it on p.80 from al-Ḥasan.

[817] The child that is miscarried before being completely formed.

[818] If it raised its voice in crying at birth, the intention being to see what signs of life come from it, meaning that if it called out, cried, sneezed or moved one of its limbs.

[819] The child inherits if most of it comes out alive and then it dies, but if less than the majority of it emerges alive and then it dies, it does not inherit.

The child inherits in its moment of life, and is inherited from when it dies. – Trans.

[820] Abū Yūsuf narrated it on p.80.

[821] He explained it with its *Sharīʿah* meaning.

[822] Here he uses a technical term which means lexically "to prevent" and technically means to prevent a specific person from inheriting all or part of the inheritance, and there are two types of it: the prevention of a specific person from inheriting a specific obligatory share such that he inherits a smaller obligatory share, and prevention of a specific person from inheriting entirely because of the presence of another person who, if it had not been for him, he would have inherited. The miscarried foetus does not prevent inheritance in either case, i.e., either completely or partially, because he was dead.

[823] Martyr is indeed the correct translation for *shahīd* since both words mean simply "witness." However, since the word martyr is overlain with the sense of passive endurance of suffering including possibly torture, it has proved impossible to use it in translation of *shahīd*, which we retain as-is to denote someone killed while fighting in the way of Allah. – Trans.

[824] Indicating that he was not carried away from the battlefield while still alive. If he was carried away alive, and had eaten and drunk while conscious, then he is to be given a *ghusl*.

[825] They are removed as long as they are not usable for shrouding such as fur-linings or stuffing and padding.

[826] i.e., if they fall short in the shrouding of the Sunnah they can increase it, and if there is excess they can reduce it.

[827] Because he is a *shahīd* who has not been carried off the battlefield while still alive, and so he is prayed over as a mark of honour for him.

[828] The text has "grave" in the singular, but in *al-Jāmiʿ* it is in the plural and that is the correct wording because they resided there, and died and were buried there.

[829] Abū Yūsuf narrated it on p.117.

[830] ʿAṭā' narrated from ʿAbd ar-Raḥmān ibn Sābiṭ and this is the saying of ʿAbd ar-Raḥmān and not of ʿAṭā'.

[831] This is either his informing about what would happen after him or a supplication in the form of a statement, and so he meant by this supplication that his Ummah attain the rank of being *shahīd* in the way of Allah by being killed at the hands of their enemies among jinn and mankind.

[832] It is piercing with spears if it does not penetrate, meaning that it is the piercing thrusts of your enemies among the jinn with hidden spears which have an effect on the innards.

[833] Abū Yūsuf narrated it on p.20.

[834] This is one of those hadith that unite together abrogation and abrogated and it declares explicitly the abrogation of the prohibition of visiting graves: visit them because it is a reminder of the next life.

[835] *hujr*: indecencies.

[836] In this there is proof of the permissibility of visiting the grave of a relative who did not live to see Islam.

[837] Storing it and eating it.

[838] The juice of dates or raisins the drinking of which is permitted when it has not become very strong nor intoxicating.

[839] Dried gourds, i.e., vessels made from them.

[840] Because every intoxicant is *ḥarām*, and if a great deal of it intoxicates, then a little of it is *ḥarām*, which was the verdict of Muḥammad and is narrated of Abū Ḥanīfah and Abū Yūsuf and it is on this basis that *fatwās* are issued.

[841] Muslim narrated it under “funerals” in the chapter on “the Prophet ﷺ seeking permission from his Lord to visit the grave of his mother,” and Abū Dāwūd in the book on “funerals” in the chapter on “visiting graves” and in the chapter on “what concessions have been narrated about visiting graves.”

[842] Those which begin, “Everything in the heavens and everything in the earth belongs to Allah...” up until the end of the surah.

[843] In any night or in any *Ṣubḥ* of the daytime, as is in narrations.

[844] Has done a lot in gathering together good and has done a good thing, because the three *āyāt* unite the two goods of the world and the next world, and *shayṭān* will not enter one’s house that night.

[845] Abū Yūsuf narrated it on p.64.

[846] It means to be extremely fast, i.e., do not hasten in recitation as with the fast recitation of poetry, and in this there is that one is urged to recite with *tartīl* (a moderate and measured recitation) and with reflection.

[847] i.e., do not drop letters as if they were bad quality dates, some of which one chooses to keep and some one throws away.

[848] Abū Yūsuf narrated it on p.46.

[849] *Alif* is a letter, *lām* is a letter and *mīm* is a letter, making three in all for each of which are recorded as ten good actions, making thirty in total.

[850] Abū Yūsuf narrated it on p.44.

[851] It is narrated from Ibn Masʿūd that the Qur'ān descended in seven modes so that whoever recites one mode should not shift to another out of desiring to do so, i.e., it is not good to recite using the recitation of Ibn Masʿūd in one *rakʿah* and then in the next to use the recitation of Zayd ibn Thābit.

[852] Abū Yūsuf narrated it on p.46.

[853] This text and others in the *Kitāb al-āthār* are intriguing records of the mode of Ibn Masʿūd remaining in use in Kufa for a considerable length of time, after its falling into disuse elsewhere. Today the recitation of Ibn Masʿūd is no longer extant, after the Ummah accepted the copy of Qur'ān prepared by Zayd ibn Thābit at the command of ʿUthmān ibn ʿAffān to which the Muslims adhere by unanimous agreement. It is only in the *tafsīr* that some of the recitations of Ibn Masʿūd and of other great Companions are preserved for the light they throw on meanings of *āyāt* and their *aḥkām*. It is not considered permissible to recite any of the modes, but it is permissible to recite the well-known recitations that are transmitted by numerous chains of transmission from large numbers of reciters in every generation (*tawātur*) among the Ummah. – Trans.

[854] The mode of recitation of Zayd ibn Thābit is transmitted in some of the famed "seven recitations," most particularly that of Nāfiʿ the reciter of Madīnah, which are in agreement with the ʿUthmānī copy of the *muṣḥaf*. – Trans.

[855] Who was unable to produce the letters with their proper pronunciation.

[856] Explained by another *āyah*: "*It is a tree that emerges in the depths of the Blazing Fire. Its fruits are just like the heads of shayṭāns*." (Sūrat aṣ-Ṣāffāt: 64-65)

[857] Since *athīm* and *fājir* are synonyms, by this it shows that in the view of Ibn Masʿūd changing one word for another was permissible if it conveyed its meaning. – Trans.

[858] i.e., reciting one word in place of another when both are close in meaning, which is not counted as a mistake leading to the invalidation of the prayer or to a false *ʿaqīdah* which he explained by an example. Yes indeed, that cannot be done deliberately and out of choice. This is under the issue of reciters' mistakes.

[859] The All-Forgiving, the All-Merciful, the All-Wise, the All-Mighty are all attributes of a single essence and close in meaning to each other, so that if one is recited in place of another, no great harm has been done.

[860] Allah is thus and He is described by these attributes.

[861] Abū Yūsuf narrated it on p.44.

[862] It is sunnah to beautify the voice when reciting and to embellish it.

[863] Abū Yūsuf narrated it on p.45.

[864] At the time of the Prophet ﷺ and in the age of the Companions and the Followers.

[865] Abū Yūsuf narrated it on p.45.

[866] Appended to "from Ibrāhīm" because Ḥammād narrated from both of them. In some printed copies it is without the "and" [i.e., from Ibrāhīm from Saʿīd ibn Jubayr] and that is weightier.

[867] Among them Ibn ʿAbbās and Ibn ʿUmar رضي الله عنهما as aṭ-Ṭaḥāwī narrated.

[868] Abū Yūsuf narrated the like of it on p.66 from Ibn Masʿūd.

[869] i.e., without touching the Qur'ān.

[870] There is in [the version in] Abū Dāwūd, "I went in to see ʿAlī رضي الله عنه, I and two men one of whom was a man of ours and [the other] a man from Banī Asad."

[871] i.e., I think there was a man of ours and a man from Banī Asad but I am not certain of it. There is in al-Bayhaqī, "And a man I think was from Banī Asad," bringing forward the phrase "I think" in the word order, as is also in *Badhl al-majhūd* and it is more fitting with this situation.

[872] Protect and struggle for. Ibn al-Athīr said, "Practise the work I have assigned you to do and act by it."

[873] There was a doubt as to whether Sayyidunā ʿAlī used *yaḥjuzu* or *yaḥjubu* which here are synonyms.

[874] As-Sindhī said, "In this there is a clear statement that the person in need of a *ghusl* because of sexual relations may not recite the Qur'ān, and it is the same in the case of menstruating women."

[875] There are different narrations from him concerning that. Al-Bukhārī cited him in an attached quote as saying, "There is no harm in reciting in the public baths."

[876] And in *al-Baḥr* there is, "And it is deplored to recite in the public baths."

[877] And in *al-Jāmiʿ* there is, "An *āyah* and the like," without "except." Hadith are narrated concerning the prohibition of reciting by those in need of *ghusl* because of sexual relations and menstruating women without any distinction between much and little.

[878] Abū Yūsuf narrated the like of it on p.46.

[879] This is either in the first person singular "I remember" or in the imperative "Remember!" and then it is either "I sneeze" or "you sneeze."

[880] *khalā'*: literally "open spaces" but is almost always used in the works of *fiqh* for the toilet, since in the earliest times, there were no toilets in the houses. People would find a discreet spot outside. – Trans.

FASTING

بَابُ الصَّوْمِ فِي السَّفَرِ وَالإِفْطَارِ

81. FASTING WHILE TRAVELLING AND BREAKING THE FAST

٢٨٤- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا إِبْرَاهِيمُ بْنُ مُسْلِم عَنْ رَجُلٍ من بَنِي سُوَاءَةَ بْنِ عَامِرٍ قَالَ : خَرَجْتُ أُرِيدُ مَكَّةَ ، فَلَقِيتُ رُفْقَتَيْنِ : فِي إِحْدَاهُمَا حُذَيْفَةُ رَضِيَ اللَّهُ عَنْهُ ، وَفِي الأُخْرَى أَبُو مُوسَى رَضِيَ اللَّهُ عَنْهُ ، قَالَ : فَكُنْتُ فِي أَصْحَابِ حُذَيْفَةَ ، قَالَ: فَصَامَ حُذَيْفَةُ وَأَصْحَابُه، وَأَبُو مُوسَى وَأَصْحَابُه، فَكَانَ حُذَيْفَةُ رَضِيَ اللَّهُ عَنْهُ يُعَجِّلُ الإِفْطَارَ وَيُؤَخِّرُ السُّحُورَ، وَكَانَ أَبُو مُوسَى رَضِيَ اللَّهُ عَنْهُ يُؤَخِّرُ الإِفْطَارَ وَيُعَجِّلُ السُّحُورَ .

284. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ibrāhīm ibn Muslim narrated to us that a man of Banī Sawā’ah said, ‘I set out meaning to go to Makkah and met two parties among one of which was Ḥudhayfah رضي الله عنه and in the other of which was Abū Mūsā رضي الله عنه.’ He said, ‘I was one of Ḥudhayfah’s companions.’ He said, ‘So Ḥudhayfah and his companions fasted[881] as did Abū Mūsā and his companions. Ḥudhayfah رضي الله عنه used to hasten to break the fast[882] but he would delay the predawn meal, and Abū Mūsā رضي الله عنه would delay breaking the fast and would hasten to take the pre-dawn meal at an early time.’”

قَالَ مُحَمَّدٌ : وَ بِقَوْلِ حُذَيْفَةَ رَضِيَ اللَّهُ عَنْهُ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to the verdict of Ḥudhayfah ﵁, and that is the verdict of Abū Ḥanīfah.”

٢٨٥– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ: أَفْطَرَ عُمَرُ بْنُ الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ وَ أَصْحَابُهُ فِي يَوْمِ غَيْمٍ ، ظَنُّوا أَنَّ الشَّمْسَ قَدْ غَابَتْ، قَالَ: فَطَلَعَتِ الشَّمْسُ ، فَقَالَ عُمَرُ رَضِيَ اللَّهُ عَنْهُ: مَا تَعَرَّضْنَا لِجَنَفٍ ، نُتِمُّ هَذَا الْيَوْمَ ثُمَّ نَقْضِي يَوْمًا مَكَانَهُ.

285. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘ʿUmar ibn al-Khaṭṭāb ﵁ and his companions broke the fast[883] on a cloudy day thinking that the sun had set.’ He said,[884] ‘Then the sun appeared, and so ʿUmar ﵁ said, “We didn’t deliberately do something wrong.[885] We will complete this day of ours, and make up by fasting a day in place of it.”’”[886]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ، أَيُّمَا رَجُلٍ أَفْطَرَ فِي غَيْمٍ فِي شَهْرِ رَمَضَانَ، أَوْ حَائِضٌ أَفْطَرَتْ ثُمَّ طَهُرَتْ فِي بَعْضِ النَّهَارِ، أَوْ قَدِمَ الْمُسَافِرُ فِي بَعْضِ النَّهَارِ إِلَى مِصْرِهِ أَتَمَّ مَا بَقِيَ مِن يَوْمِهِ، فَلَمْ يَأْكُلْ وَلَمْ يَشْرَبْ ، وَقَضَى يَوْمًا مَكَانَهُ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. If a man breaks his fast while travelling during Ramaḍān, or a menstruating woman breaks her fast and then becomes pure during a part of the day, or a traveller arrives in his city during the daytime, then they complete what remains[887] of their day without eating or drinking, and then make up by fasting a day in place of it, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

بَابُ قُبْلَةِ الصَّائِمِ وَمُبَاشَرَتِه

82. A FASTING PERSON KISSING OR EMBRACING

٢٨٦- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ : أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ كَانَ يُقَبِّلُ وَهُوَ صَائِمٌ.

286. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that the Prophet ﷺ would kiss while fasting."[888]

٢٨٧- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ: حَدَّثَنَا زِيَادُ بْنُ عِلَاقَةَ عَنْ عَمْرِو بْنِ مَيْمُونٍ عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ كَانَ يُقَبِّلُ وَهُوَ صَائِمٌ.

287. Muḥammad said, "Abū Ḥanīfah informed us saying, 'Ziyād ibn ʿIlāqah narrated to us from ʿAmr ibn Maymūn from ʿĀ'ishah ؓ that the Prophet ﷺ used to kiss[889] while fasting.'"[890]

٢٨٨- مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ: حَدَّثَنَا رَجُلٌ عَنْ عَامِرٍ الشَّعْبِيِّ، عَنْ مَسْرُوقٍ، عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا قَالَتْ : كَانَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يُصِيبُ من وَجْهِهَا وَهُوَ صَائِمٌ .

288. Muḥammad said, "Abū Ḥanīfah informed us saying, 'A man narrated to us from ʿĀmir ash-Shaʿbī from Masrūq that ʿĀ'ishah ؓ said that the Messenger of Allah ﷺ used to kiss her face[891] while fasting.'"[892] [893]

قَالَ مُحَمَّدٌ : لَا نَرَى بِذَلِكَ بَأْساً إِذَا مَلَكَ الرَّجُلُ نَفْسَهُ عَنْ غَيْرِ ذَلِكَ، أَيْ الْإِنْزَالَ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, “We see no harm in that if a man has control of himself[894] so that it doesn’t lead to other things, i.e., ejaculation, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٢٨٩- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ كَانَ يُبَاشِرُ وَهُوَ صَائِمٌ .

289. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that the Prophet ﷺ would be in contact, skin to skin, while fasting.”

قَالَ مُحَمَّدٌ : لَا نَرَى بِذَلِكَ بَأْساً مَالَمْ يَخَفْ عَلَى نَفْسِه غَيْرَ الْمُبَاشَرَةِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, “We see no harm in that as long as one does not fear for oneself that it will go further than being in contact, skin to skin,[895] and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

بَابُ مَا يَنْقُضُ الصَّوْمَ

83. WHAT BREAKS THE FAST

٢٩٠– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّهُ قَالَ فِي الرَّجُلِ يُمَضْمِضُ أَوْ يَسْتَنْشِقُ وَهُوَ صَائِمٌ ، فَيَسْبِقُهُ الْمَاءُ فَيَدْخُلُ حَلْقَهُ ، قَالَ : يُتِمُّ صَوْمَهُ ، ثُمَّ يَقْضِي يَوْمًا مَكَانَهُ .

290. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man washing out his mouth and nose [in *wuḍū’*] while fasting, such that in his haste the water reached his throat, ‘He should complete his fasting and then later make it up by fasting another day in place of it.’”[896]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، إِنْ كَانَ ذَاكِرًا لِصَوْمِهِ ، فَإِذَا كَانَ نَاسِيًا لِلصَّوْمِ فَلَا قَضَاءَ عَلَيْهِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this, if he had remembered that he was fasting.[897] However, if he had forgotten that he was fasting, he does not have to make it up, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٢٩١– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ فِي الْقَيْءِ : لَا قَضَاءَ عَلَيْهِ إِلَّا أَنْ يَكُونَ تَعَمَّدَهُ فَيُتِمُّ صَوْمَهُ ، ثُمَّ يَقْضِيهِ بَعْدُ .

291. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning vomit, ‘He does not have to make [the fast] up unless he did it deliberately,[898] in which case he should complete his fast and then later make it up[899] [by fasting another day in its place].’”[900]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٢٩٢- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يُصِيبُ أَهْلَه وَهُوَ صَائِمٌ فِي شَهْرِ رَمَضَانَ، قَالَ : يُتِمُّ صَوْمَه، وَيَقْضِي مَا أَفْطَرَ، وَيَتَقَرَّبُ إِلَى اللّٰهِ تَعَالَى بِمَا اسْتَطَاعَ من خَيْرٍ. وَلَوْ عَلِمَ بِهِ الْإِمَامُ عَزَّرَه.

292. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who has intercourse with his wife[901] while fasting in the month of Ramaḍān, ‘He should complete his fast, make up by fasting a day in place of the one in which he broke his fast, and seek to draw closer to Allah,[902] exalted is He, with whatever of good actions he is able. If the imam [the ruler] comes to know about it, he should give him a discretionary punishment (*taʿzīr*[903]).’”[904]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ، وَنَرَى مَعَ ذَلِكَ أَنَّ عَلَيْهِ الْكَفَّارَةَ: عِتْقَ رَقَبَةٍ، فَإِنْ لَمْ يَجِدْ فَصِيَامُ شَهْرَيْنِ مُتَتَابِعَيْنِ، فَإِنْ لَمْ يَسْتَطِعْ فَاطْعَامُ سِتِّينَ مِسْكِينًا، لِكُلِّ مِسْكِينٍ نِصْفُ صَاعٍ من حِنْطَةٍ، أَوْ صَاعٌ من تَمْرٍ، أَوْ شَعِيرٍ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللّٰهُ تَعَالَى.

Muḥammad said, “We adhere to this, and we think that along with that he owes expiation:[905] freeing a slave, but if he does not have the means[906] then fasting two consecutive months, and if he is not able then he should feed sixty poor people giving each of them a half of a *ṣāʿ*[907] of wheat, or a *ṣāʿ* of dates or barley, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ فَضْلِ الصَّوْم

84. THE MERIT IN FASTING

٢٩٣- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ سَعِيدِ بن جُبَيْرٍ قَالَ: صَوْمُ يَوْمِ عَاشُورَاءَ يَعْدِلُ بِصَوْمِ سَنَةٍ ، وَصَوْمُ يَوْمِ عَرَفَةَ بِصَوْمِ سَنَتَيْنِ ، سَنَةً قَبْلَهَا وَسَنَةً بَعْدَهَا .

293. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Saʿīd ibn Jubayr said, ‘Fasting the day of ʿĀshūrā’ is equal to fasting a year, and fasting the day of ʿArafah is equal to fasting two years, the year preceding it and the following year.’”[908]

٢٩٤- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا عَلِيُّ بْنُ الأَقْمَرِ : أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ كَانَ يَظَلُّ صَائِمًا ، وَ يَبِيتُ طَاوِيًا قَائِمًا ، ثُمَّ يَنْصَرِفُ إِلَى شَرْبَةٍ من لَبَنٍ قَدْ وُضِعَتْ لَهُ فَيَشْرَبُهَا ، فَتَكُونُ فِطْرَهُ وَسُحُورَهُ إِلَى مِثْلِهَا من الْقَابِلَةِ. قَالَ: فَانْصَرَفَ إِلَى شَرْبَتِهِ، فَوَجَدَ بَعْضَ أَصْحَابِهِ قَدْ بَلَغَ مَجْهُودَهُ، فَشَرِبَهَا ، فَطُلِبَ لَهُ فِي بُيُوتِ أَزْوَاجِهِ طَعَامٌ أَوْ شَرَابٌ، فَلَمْ يُوجَدْ ، فَطَلَبُوا عِنْدَ أَصْحَابِهِ فَلَمْ يَجِدُوا عِنْدَهُمْ شَيْئًا ، فَقَالَ : وَمَنْ يُطْعِمُنِي؟ أَطْعَمَهُ اللَّهُ - مَرَّتَيْنِ - فَلَمْ يَجِدُوا شَيْئًا يُطْعِمُونَه إِيَّاهُ، قَالَ: فَأَقْبَلُوا عَلَى الْعَنْزِ ، فَوَجَدُوهَا كَأَحْفَلِ مَا كَانَتْ، فَحَلَبُوا مِنْهَا مِثْلَ شَرْبَةِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ.

294. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘ʿAlī ibn al-Aqmar narrated to us that the Prophet ﷺ would fast continually[909] and spend the night hungry[910] standing in prayer. Then he would go to a portion[911] of milk which had been put out for him and drink it,[912] and it would be[913] both his meal for breaking the fast and his pre-dawn meal until the same[914] as it the next day.’ He said, ‘One time he went to get his drink and found that one of his Companions had fatigued himself[915] and had drunk it.[916] So they looked for food or drink for him[917] in his wives’ chambers, but nothing was found. They asked his Companions but found nothing with any of them. He

said, “Whoever feeds me, may Allah feed him,” twice, but they found nothing with which to feed him.’ He said, ‘So they turned to a she-goat and discovered that its udder was as full as it possibly[918] could be with milk and so they milked some of it equal to the drink of the Messenger of Allah ﷺ.’”[919]

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[881] While travelling both fasting and breaking the fast are permissible and fasting is better for those who are strong enough to do it.

[882] In the narration of ʿĀ’ishah, “Thus did the Messenger of Allah ﷺ.” The best approach is to interpret the act of Ḥudhayfah as being the Sunnah, and the act of Abū Mūsā al-Ashʿarī as clarifying what is permissible.

[883] On a day of Ramaḍān.

[884] i.e., a man [meaning either Ibrāhīm or his informant]. In one narration there is that the *mu’adhdhin* came and said, “Amīr al-Mu’minīn, the sun is still up.”

[885] Had it been deliberate, they would each have had to free a slave; or fast two consecutive months; or feed sixty poor people. – Trans.

[886] Abū Yūsuf narrated it on p.180.

[887] Obligatorily making up the fast because of the right due to the time [the fast having been broken] because of the ambiguity surrounding [whether the sun had set] which the fasting people experienced.

[888] It is narrated by different routes from ʿĀ’ishah, Ḥafṣah and Umm Salamah, the wives of the Prophet ﷺ, by al-Bukhārī under “fasting” in the chapter on “the fasting person’s kissing,” and Muslim under “fasting” in the chapter on “the explanation that kissing while fasting is not *ḥarām* for the person whose [sexual] appetite does not set him in motion.”

[889] One of his wives or she [ʿĀ’ishah] herself.

[890] Abū Yūsuf narrated it on p.177.

[891] i.e., either touching it or kissing it.

[892] Obligatory or supererogatory fasts.

[893] Abū Yūsuf narrated it on p.177.

[894] And if one fears that he has no self-control then restraining oneself is better. The tradition of Ibn ʿUmar indicates the prohibition of it unqualifiedly, and some of them concede it to old men but not to young men.

[895] Sexual intercourse. What is meant by *mubāsharah* is touching each other, sporting and intercourse. [Contrary to Ḥāfiẓ Riyāḍ Aḥmad al-Multānī we have chosen to retain our translation of “being in contact, skin to skin” since the hadith refers to the Prophet ﷺ doing so [*yubāshiru*] while fasting. – Trans.]

[896] Abū Yūsuf narrated it on p.180.

[897] This is the form of mistakenly doing so. The difference between forgetfulness and being mistaken is that the forgetful person deliberately does the act forgetting the fast, but the person who does it accidentally remembers the fast but does not deliberately do the act. Ash-Shāfiʿī and Aḥmad said that there is no making up the fast for accidents and forgetfulness.

[898] Because of his saying ﷺ, “Whoever vomits does not have to make it up, but whoever deliberately induces vomiting must make it up.”

[899] If he induces vomiting to the extent of filling his mouth according to Abū Yūsuf, and without any qualification [of quantity] according to Muḥammad.

[900] Abū Yūsuf narrated it on p.179.

[901] He has intercourse with his wife deliberately and similarly if he eats or drinks deliberately.

[902] By asking forgiveness, giving *ṣadaqah* and other things.

[903] Discretionary punishments (*taʿzīr*) are at most thirty-nine lashes and at least three. Abū Yūsuf said that discretionary punishment may amount to seventy-five lashes. [The *amir* or *imam*, i.e., the *sultan*, or the *qāḍī* may impose them at their discretion, but they should not equal or exceed a *ḥadd* punishment. – Trans.]

[904] Abū Yūsuf narrated the like of it on p.180.

[905] The same expiation as in the case of *ẓihār*.

[906] In this he informs us that one does not move on from freeing a slave to fasting and similarly on to feeding sixty poor people unless one is unable [to free a slave, or after that fast]. Clear declarations concerning this have been transmitted in many narrations. Our companions and ash-Shāfiʿī gave verdict according to this. Mālik said that one has the choice.

[907] One *ṣāʿ* is a volume of 2.03 litres according to the *Ḥanafī madhhab*, and will have a different weight according to the commodity in question. Its measure in the Ḥijāz differed from that adopted in Iraq.

[908] Abū Yūsuf narrated it on p.177.

[909] In the daytime.

[910] Refers to doing so deliberately.

[911] Such as can be drunk in one swallow.

[912] At the time of *suḥūr*.

[913] i.e., this mouthful at the time of *suḥūr*.

[914] He ﷺ would drink a similar drink at the time of *suḥūr* the next day.

[915] Meaning he had becoming extremely weak from hunger.

[916] The Companion had drunk the portion of milk which had been put out for the Prophet ﷺ.

[917] For the Prophet ﷺ as is clear in other narrations.

[918] It had become full of milk as a miracle of the Prophet ﷺ.

[919] Abū Yūsuf narrated it on p.174.

ZAKĀH

بَابُ زَكَاةِ الذَّهَبِ وَالْفِضَّةِ وَمَالِ الْيَتِيمِ

85. ZAKĀH ON GOLD AND SILVER AND ORPHANS' PROPERTY

٢٩٥– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : لَيْسَ فِي أَقَلَّ مِن عِشْرِينَ مِثْقَالا من الذَّهَبِ زَكَاةٌ، فَإِذَا كَانَ الذَّهَبُ عِشْرِينَ مِثْقَالا؛ فَفِيهَا نِصْفُ مِثْقَال. فَمَا زَادَ فَبِحِسَابِ ذَلِكَ. وَلَيْسَ فِيمَا دُونَ مِائَتَيْ دِرْهَم صَدَقَةٌ، فَإِذَا بَلَغَتِ الْوَرِقُ مِائَتَيْ دِرْهَم فَفِيهَا خَمْسَةُ دَرَاهِمَ ، فَمَا زَادَ فَبِحِسَابِ ذَلِكَ.

295. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, 'There is no *zakāh* on less than twenty *mithqāls*[920] of gold. When the gold reaches twenty *mithqāls* then one owes half of a *mithqāl* from it. Whatever is above that[921] is reckoned by the same calculation. There is no *zakāh* on less than two hundred dirhams. When the silver reaches two hundred dirhams then five dirhams is owed on it and whatever is above that is reckoned by the same calculation.'"[922]

قَالَ مُحَمَّدٌ : وبهذا كُلِّه نَأْخُذُ ، وَكَانَ أَبُو حَنِيفَةَ يَأْخُذُ بِذَلك كُلِّه إلاَّ فِي خَصْلَة وَاحِدَة، فَمَا زَادَ عَلَى مِائَتَيْ دِرْهَم فَلَيْسَ فِي الزِّيَادَة شَيْءٌ حَتَّى تَبْلُغَ أَرْبَعِينَ دِرْهَمًا ، فَيَكُونُ فِيهَا دِرْهَمٌ، فَمَا زَادَ عَلَى الْعِشْرِينَ مِثْقَالا من الذَّهَب فَلَيْسَ فِيه شَيْءٌ حَتَّى يَبْلُغَ أَرْبَعَ مَثَاقِيل، فَيَكُونُ فِيه بِحِسَاب ذَلك.

Muḥammad said, “We adhere to all of this and Abū Ḥanīfah used to adhere to all of it except in one respect: whatever is over two hundred dirhams then there is nothing owed on it[923] until it amounts to forty dirhams when one owes a single dirham on it. Whatever is over and above the twenty *mithqāls* of gold, then there is nothing owing on it until it reaches four *mithqāls,*[924] and there will be [*zakāh*] owing on it according to the same calculation.”

٢٩٦– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : لَيْسَ فِي مَالِ الْيَتِيمِ زَكَاةٌ وَلَا يَجِبُ عَلَيْهِ الزَّكَاةُ حَتَّى يَجِبَ عَلَيْهِ الصَّلَوةُ .

296. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘There is no *zakāh* on the property of orphans[925] and they are not obliged to pay *zakāh* until they are obliged to perform the prayer.’”[926]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٢٩٧– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ: حَدَّثَنَا لَيْثُ بْنُ أَبِي سُلَيْمٍ عَنْ مُجَاهِدٍ عَنِ ابْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ أَنَّهُ قَالَ : لَيْسَ فِي مَالِ الْيَتِيمِ زَكَاةٌ.

297. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Layth ibn Abī Sulaym narrated to us from Mujāhid that Ibn Masʿūd ﵁ said, “There is no *zakāh* on the property of orphans.”’”[927]

٢٩٨– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا أَبُوبَكْرٍ عَنْ عُثْمَانَ بْنِ عَفَّانَ رَضِيَ اللَّهُ عَنْهُ أَنَّهُ كَانَ يَقُولُ إِذَا حَضَرَ شَهْرُ رَمَضَانَ: أَيُّهَا النَّاسُ! إِنَّ هَذَا شَهْرُ زَكَاتِكُمْ قَدْ حَضَرَ، فَمَن كَانَ عَلَيْهِ دَيْنٌ فَلْيَقْضِهِ، ثُمَّ لِيُزَكِّ مَا بَقِيَ.

298. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Abū Bakr narrated to us that ʿUthmān ibn ʿAffān رضي الله عنه used to say when the month of Ramaḍān came, “People, this month of your *zakāh* has come, so whoever owes a debt[928] should pay it and then pay the *zakāh* on what remains.”’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، عَلَيْهِ الزَّكَاةُ بَعْدَ قَضَاءِ دَيْنِه .

Muḥammad said, “We adhere to this. One owes *zakāh* after settling one’s debts.”

٢٩٩- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا الْهَيْثَمُ عَنِ ابْنِ سِيرِينَ عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ رَضِيَ اللَّهُ عَنْهُ قَالَ : إِذَا كَانَ لَكَ دَيْنٌ عَلَى النَّاسِ فَقَبَضْتَه فَزَكِّهِ لِمَا مَضَى .

299. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Al-Haytham narrated to us from Ibn Sīrīn that ʿAlī ibn Abī Ṭālib رضي الله عنه said, “When you are owed a debt by people and you are repaid, then pay the *zakāh* on it for the time that has elapsed.”’”[929]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٣٠٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي رَجُلٍ أَقْرَضَ رَجُلاً أَلْفَ دِرْهَمٍ قَالَ: زَكَاتُهَا عَلَى الَّذِي يَسْتَعْمِلُهَا وَيَنْتَفِعُ بِهَا .

300. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who lent another a thousand dirhams, ‘Its *zakāh* is owed by the one who uses it and benefits from it.’”[930]

قَالَ مُحَمَّدٌ : وَلَسْنَا نَأْخُذُ بِهَذَا ، وَلَكِنَّا نَأْخُذُ بِقَوْلِ عَلِيٍّ : زَكَاتُهَا عَلَى صَاحِبِهَا ، إِذَا قَبَضَهَا زَكَّاهَا لِمَا مَضَى .

Muḥammad said, “We do not adhere to this, but we adhere to the verdict of ʿAlī that its owner [who lent the money] pays its *zakāh*, and that when he receives it he pays the *zakāh* on it for the time which has elapsed.”

◆

بَابُ زَكَاةِ الْحُلِيِّ

86. *ZAKĀH* ON JEWELLERY

٣٠١– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ عَنْ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ أَنَّ امْرَأَةً قَالَتْ لَهُ : إِنَّ لِي حُلِيّاً ، فَهَلْ عَلَيَّ فِيهِ زَكَاةٌ؟ فَقَالَ لَهَا : نَعَمْ ، فَقَالَتْ : إِنَّ لِي ابْنَيْ أَخٍ يَتَامَى فِي حَجْرِي ، أَفَتُجْزِئُ عَنِّي أَنْ أَجْعَلَ ذَلِكَ فِيهِمَا؟ قَالَ : نَعَمْ .

301. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm from ʿAbdullāh ibn Masʿūd ؓ that a woman[931] said to him, “I have jewellery, so do I have to pay *zakāh* on it?” He said to her, “Yes.” She said, “I have my brother’s two orphaned sons in my care. Would it be acceptable[932] for to me to give it to them?” He said, “Yes.”’”[933]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، لَا بَأْسَ بِأَنْ يُعْطِيَ من الزَّكَاةِ كُلَّ ذِي رَحِمٍ إِلَّا وَلَدًا ، وَّوَالِدًا ، وَوَلَدَ وَلَدٍ ، وَجَدًّا وَجَدَّةً ، وَإِنْ كَانُوا فِي عَيَالِه ، وَالزَّوْجَةُ لا تُعْطَى من الزَّكَاةِ. وَقَالَ أَبُو حَنِيفَةَ : لا يُعْطَى الزَّوْجُ أَيْضاً . وَأَمَّا نَحْنُ؛ فَلَا نَرى بَأْساً بِأَنْ يُعْطَى الزَّوْجُ من الزَّكَاةِ، وَلَا نَرى فِي شَيْءٍ من الْحُلِيِّ زَكوةً إِلَّا فِي الذَّهَبِ وَالْفِضَّةِ، وَأَمَّا فِي الْجَوْهَرِ وَاللُّؤْلُؤِ فَلَا زَكوةَ فِيهِ إِلَّا أَنْ يَكُونَ لِلتِّجَارةِ.

Muḥammad said, “We adhere to this, and there is no harm in giving the *zakāh* to any close relative except for a child,[934] parent, grandchild, grandfather and grandmother even if they are among one’s dependents. And a wife may not be given *zakāh*.[935] Abū Ḥanīfah said, ‘The husband is not to be given either.’ But as for us, we see no harm[936] in the husband being given *zakāh*, nor do we think that there is any *zakāh* to be paid on jewellery except on gold and silver.[937] As for precious stones and pearls, there is no *zakāh* on them except if they are for the purpose of trade.”

٣٠٢- مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ: لَيْسَ فِي الْجَوْهَرِ وَاللُّؤْلُؤِ زَكَاةٌ إِذَا لَمْ يَكُنْ لِلتِّجَارَةِ.

302. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘There is no *zakāh* on precious stones and pearls if they are not being kept for the purpose of trade.’”[938]

قَالَ مُحَمَّدٌ : وَ بِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

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بَابُ زَكَاةِ الْفِطْرِ وَالْمَمْلُوكِينَ

87. ZAKĀT *AL-FIṬR* AND SLAVES

٣٠٣– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ: حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ فِي صَدَقَةِ الرَّجُلِ عَنْ كُلِّ مَمْلُوكٍ أَوْ حُرٍّ ، أَوْ صَغِيرٍ أَوْ كَبِيرٍ : نِصْفُ صَاعٍ مِن بُرٍّ ، أَوْ صَاعٌ مِن تَمْرٍ .

303. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm concerning the *ṣadaqah* a man pays on behalf of every slave or free person, minor or adult, “It is a half of a *ṣāʿ* of wheat[939] or a *ṣāʿ* of dates.”’”[940]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، فَإِنْ أَدَّى صَاعًا من شَعِيرٍ أَجْزَأَهُ أَيْضًا . وقَالَ أَبُو حَنِيفَةَ : نِصْفُ صَاعٍ من زَبِيبٍ يُجْزِئُه ، وَأَمَّا فِي قَوْلِنَا فَلَا يُجْزِئُه إِلَّا صَاعٌ من زَبِيبٍ .

Muḥammad said, “We adhere to this, and if he pays a *ṣāʿ* of barley that will also suffice. Abū Ḥanīfah said, ‘Half a *ṣāʿ* of raisins[941] also suffices for him,’ but our verdict is that only a *ṣāʿ* of raisins[942] suffices.”

٣٠٤– مُحَمَّدٌ قَالَ : أَخْبَرَنَا سُفْيَانُ الثَّوْرِيُّ عَنْ عُثْمَانَ بْنِ الْأَسْوَدِ الْمَكِّيِّ عَنِ الْمُجَاهِدِ قَالَ : مَا سِوَى الْبُرِّ فَصَاعاً صَاعاً . قَالَ مُحَمَّدٌ : وبِهذَا نَأْخُذُ .

304. Muḥammad said, “Sufyān ath-Thawrī informed us from ʿUthmān ibn al-Aswad that al-Mujāhid said, ‘Everything other than wheat is *ṣāʿ* by *ṣāʿ*.’”

٣٠٥– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ: لَيْسَ فِي الْمَمْلُوكِينَ وَالَّذِينَ يُؤَدُّونَ الضَّرِيبَةَ زَكَاةٌ، وَلَكِنْ إِذَا كَانُوا لِلتِّجَارَةِ كَانَتِ الزَّكَاةُ فِي الْقِيمَةِ .

305. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘There is no *zakāh* on slaves and those who pay

an impost,[943] but if they are kept for trade there will be *zakāh* on their value.'"

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

٣٠٦– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا كَانَ الْمَمْلُوكُونَ لِلتِّجَارَةِ فَالصَّدَقَةُ مِن الْقِيمَةِ فِي كُلِّ مِائَتَيْ دِرْهَمٍ خَمْسَةُ دَرَاهِمَ .

306. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, 'If slaves are kept for trade, then *zakāh* is paid on their value, on every two hundred dirhams, five dirhams.'"

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

◆

بَابُ زَكَاةِ الدَّوَابِّ الْعَوَامِلِ

88. *ZAKĀH* ON WORKING ANIMALS

٣٠٧– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّهُ قَالَ فِي الْخَيْلِ السَّائِمَةِ الَّتِي يُطْلَبُ نَسْلُهَا : إِنْ شِئْتَ فِي كُلِّ فَرَسٍ دِينَارٌ ، وَإِنْ شِئْتَ عَشَرَةُ دَرَاهِمَ ، وَإِنْ شِئْتَ فَالْقِيمَةُ ، ثُمَّ كَانَ فِي كُلِّ مِائَتَيْ دِرْهَمٍ خَمْسَةُ دَرَاهِمَ ، فِي كُلِّ فَرَسٍ ذَكَرٍ أَوْ أُنْثَى .

307. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning pasturing[944] horses kept for reproduction, 'If you wish,[945] there is a dinar on every horse, and if

you wish ten dirhams, and if you wish, it is according to the value, so that on every two hundred dirhams there is five dirhams on every horse whether male or female.'"[946]

قَالَ مُحَمَّدٌ : وبِهذَا كُلِّهِ يَأْخُذُ أَبُو حَنِيفَةَ ، وَأَمَّا فِي قَوْلِنَا فَلَيْسَ فِي الْخَيْلِ صَدَقَةٌ .

Muḥammad said, "Abū Ḥanīfah used to adhere to all of this, but our verdict[947] is that there is no *zakāh* on horses."

٣٠٨- بَلَغَنَا عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنَّهُ قَالَ : عَفَوْتُ لِأُمَّتِي عَنْ صَدَقَةِ الْخَيْلِ وَالرَّقِيقِ .

308. It has reached us[948] that the Prophet ﷺ said, "I have annulled for my community's sake the *zakāh* on horses[949] and on slaves."[950] [951]

٣٠٩- مُحَمَّدٌ قَالَ: أَخْبَرَنَا خَيْثَمُ بْنُ عِرَاكِ بْنِ مَالِكٍ قَالَ :سَمِعْتُ أَبِي يَقُولُ: سَمِعْتُ أَبَا هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ يَقُولُ : سَمِعْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: لَيْسَ عَلَى الْمَرْءِ الْمُسْلِمِ فِي فَرَسِهِ وَلَا فِي عَبْدِهِ صَدَقَةٌ .

309. Muḥammad said, "Khaytham ibn ʿArāk ibn Mālik informed us saying, 'I heard my father saying, "I heard Abū Hurayrah ؓ saying, 'I heard the Messenger of Allah ﷺ saying, "There is no *zakāh* to be paid by a Muslim man on his horse[952] or his slave."'"'"[953] [954]

٣١٠- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ: لَيْسَ فِي الْحُمُرِ السَّائِمَةِ زَكَاةٌ.

310. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, 'There is no *zakāh* on pasturing donkeys.'"[955]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٣١١- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ قَالَ : لَيْسَ فِيمَا عُمِلَ عَلَيْهِ من الثِّيرَانِ صَدَقَةٌ ، وَلَا عَلَى مَا يَكُونُ من الإبلِ الطَّحَّانَاتِ وَالْعَمَّالَاتِ صَدَقَةٌ .

311. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us that Ibrāhīm said, “There is no *zakāh* on bulls on which one works, nor is there *zakāh* on camels used for milling or for labouring.”’”[956]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ زَكَاةِ الزَّرْعِ وَالْعُشْرِ

89. *ZAKĀH* ON CROPS AND THE TENTH

٣١٢- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : فِي كُلِّ شَيْءٍ أَخْرَجَتِ الْأَرْضُ مِمَّا سَقَتِ السَّمَاءُ أَوْ سُقِيَ سَيْحًا الْعُشْرُ ، وَمَا سُقِيَ بِغَرْبٍ أَوْ دَالِيَةٍ: فَفِيهِ نِصْفُ الْعُشْرِ .

312. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘On everything[957] which the earth produces of that which the sky waters or is watered by naturally-occurring running water there is a tenth [due in *zakāh*]. On everything watered by using large leather buckets or irrigated using waterwheels[958] there is a half of a tenth.’”[959]

قَالَ مُحَمَّدٌ : وبِهذَا كَان يأخذ أبُو حَنِيفَةَ، وَأَمَّا فِي قَوْلِنَا فَلَيْسَ فِي الْخُضَرِ صَدَقَةٌ، وَالْخُضَرُ : الْبُقُولُ ، وَالرِّطَابُ ، وَمَا لَمْ يَكُنْ لَهُ ثَمَرَةٌ بَاقِيَةٌ نَحْوَ الْبِطِّيخِ، وَالْقِثَّاءِ ، وَالْخِيَارِ، وَمَا كَانَ من الْحِنْطَةِ ، وَالشَّعِيرِ ، وَالتَّمْرِ ، وَالزَّبِيبِ ، وَأَشْبَاهِ ذَلِك فَلَيْسَ فِيه صَدَقَةٌ حَتَّى يَبْلُغَ خَمْسَةَ أَوْسَاقٍ، وَالْوَسْقُ سِتُّونَ صَاعًا ، وَالصَّاعُ الْقَفِيزُ الْحَجَّاجِيُّ وَرُبُعُ الْهَاشِمِيِّ، وَهُوَ ثَمَانِيَةُ أَرْطَالٍ.

Muḥammad said, “Abū Ḥanīfah used to adhere to this, but our verdict is that there is no *zakāh* on soft tender greens[960] which include annual herbs, vegetables and juicy fruits[961] which have no enduring fruit,[962] such as water melon, and cucumbers. On whatever there is of wheat, barley, dried dates, raisins and their like, there is no *zakāh* until they amount to five *wasqs*[963] and a *wasq* is sixty *ṣāʿ*, and the *ṣāʿ* is the *qafīz* of al-Ḥajjāj [ibn Yūsuf] and a quarter of the Hāshimī, and it is eight *raṭl*.”[964]

٣١٣– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي قَوْلِه تَعَالَى : ﴿وَآتُوا حَقَّهُ يَوْمَ حَصَادِهِ﴾ قَالَ : مَنسُوخَةٌ.

313. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning His words, exalted is He, ‘and pay their due on the day of their harvest’ (Sūrat al-Anʿām: 142), ‘They are abrogated.’”[965]

٣١٤– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ أَبِي صَخْرَةَ الْمُحَارِبِيِّ عَنْ زِيَادِ بْنِ حُدَيْرٍ قَالَ: بَعَثَهُ عُمَرُ بْنُ الْخَطَّاب رَضِيَ اللَّهُ عَنْهُ مُصَدِّقًا إِلَى عَيْنِ التَّمْرِ ، فَأَمَرَه أَنْ يَأْخُذَ من الْمُصَلِّينَ مِن أَمْوَالِهِمْ رُبُعَ الْعُشْرِ ، وَمن أَمْوَالِ أَهْلِ الذِّمَّةِ إِذَا اخْتَلَفُوا بِهَا لِلتِّجَارَةِ نِصْفَ الْعُشْرِ ، وَمن أَمْوَالِ أَهْلِ الْحَرْبِ الْعُشْرَ.

314. Muḥammad said, “Abū Ḥanīfah informed us from Abū Ṣakhrah al-Muḥāribī[966] that Ziyād ibn Ḥudayr said that ʿUmar ibn al-Khaṭṭāb ﵁ sent him to ʿAyn at-Tamr[967] to collect the *zakāh* and told him to take a quarter of a tenth from the wealth of those who prayed [the Muslims], and a half of a tenth from the wealth of the People [of the Book] who had made the *dhimmah* treaty when they came and went there for trade, and a tenth from the wealth of the people who had come from the Abode of War [outside the rule of Islam].”[968]

٣١٥– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا الْهَيْثَمُ عَنْ أَنَسِ بْنِ سِيرِينَ عَنْ أَنَسِ بْنِ مَالِكٍ رَضِيَ اللَّهُ عَنْهُ قَالَ : كَانَ عُمَرُ بْنُ الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ يَبْعَثُ أَنَسَ بْنَ مَالِكٍ رَضِيَ اللَّهُ عَنْهُ مُصَدِّقًا لِأَهْلِ الْبَصْرَةِ ، قَالَ : فَأَرَادَنِي أَنْ أَعْمَلَ لَهُ ، فَقُلْتُ : لَا ؛ حَتَّى تَكْتُبَ لِي عَهْدَ عُمَرَ بْنِ الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ الَّذِي كَتَبَ لَكَ ، فَكَتَبَ لِي أَنْ آخُذَ مِن أَمْوَالِ الْمُسْلِمِينَ رُبُعَ الْعُشْرِ ، وَمِن أَمْوَالِ أَهْلِ الذِّمَّةِ إِذَا اخْتَلَفُوا بِهَا لِلتِّجَارَةِ نِصْفَ الْعُشْرِ ، وَمِن أَمْوَالِ أَهْلِ الْحَرْبِ الْعُشْرَ .

315. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Al-Haytham narrated to us from Anas ibn Sīrīn that Anas ibn Mālik ﵁ said that ʿUmar ibn al-Khaṭṭāb ﵁ had sent Anas ibn Mālik as a *zakāh* collector to the people of Basra, and he [Anas ibn Sīrīn] said, “And he [Anas ibn Mālik] wanted me to act as his *zakāh* agent, but I said, ‘No, not until you write down for me the contract that ʿUmar ibn al-Khaṭṭāb ﵁ wrote for you.’ So he wrote for me that I should take a quarter of a tenth from the wealth of the Muslims, and a half of a tenth from the wealth of the People [of the Book] who had made the *dhimmah* treaty when they came and went there for trade, and a tenth from the wealth of the people who had come from the Abode of War [outside the rule of Islam].”’”[969]

قَالَ مُحَمَّدٌ : وَبِهَذَا كُلِّهِ نَأْخُذُ ، فَأَمَّا مَا أُخِذَ مِن الْمُسْلِمِينَ فَهُوَ زَكَاةٌ ، فَيُوضَعُ فِي مَوْضِعِ الزَّكَاةِ لِلْفُقَرَاءِ ، وَالْمَسَاكِينِ ، وَمَنْ سَمَّى اللَّهُ فِي كِتَابِه ، وَمَا أُخِذَ مِن أَهْلِ الذِّمَّةِ وَمِن أَهْلِ الْحَرْبِ يُوضَعُ مَوْضِعَ الْخَرَاجِ فِي بَيْتِ الْمَالِ لِلْمُقَاتِلَةِ .

Muḥammad said, “We adhere to all of this. As for what is taken from the Muslims, that is *zakāh* and it is put to the use of *zakāh* for the needy and the bereft and those Allah has named in His Book. What is taken from the people who have made the *dhimmah* treaty and from the people at war [with Muslims] is put along with the *kharāj*[970] in the *bayt al-māl* for combat.”[971]

◆

بَابُ كَيْفَ تُعْطَى الزَّكَاةُ

90. HOW *ZAKĀH* IS GIVEN

٣١٦– مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ: حَدَّثَنَا عَمْرُو بن جُبَيْرٍ عَنْ إِبْرَاهِيمَ النَّخَعِيِّ : أَنَّ رَجُلاً أَرَادَ أَنْ يُعْطِيَ الزَّكَاةَ أَرْبَعَ مِائَةِ دِرْهَم ، فَذَهَبَ إِلَى إِبْرَاهِيمَ يَدُلُّه ، فَكَانَ يُعْطِي أَهْلَ الْبَيْتِ عَشَرَةَ دَرَاهِمَ ، فَقَالَ إِبْرَاهِيمُ : لَوْ كُنْتُ أَنَا كَانَ أَنْ أُغْنِيَ بِهَا أَهْلَ الْبَيْتِ مِن الْمُسْلِمِينَ أَحَبُّ إِلَيَ .

316. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘ʿAmr ibn Jubayr narrated to us from Ibrāhīm an-Nakhaʿī that a man wished to give[972] his *zakāh* as four hundred dirhams and he went to Ibrāhīm to show him. He had given the members of a household[973] ten dirhams [each], and so Ibrāhīm said, ‘If it was me, I would prefer to enrich[974] the members of a Muslim household by it.’”[975]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، أُعْطِيَ من الزَّكَاةِ مَا بَيْنَه وَبَيْنَ الْمائَتَيْن ، وَلَا يَبْلُغُ بِهَا مائَتَيْن ، إِلاَّ أَنْ يَكُونَ مُغْرَمًا فَيُعْطَى قَدْرَ دَيْنِه ، وَفَضْلَ مِائَتَيْ دِرْهَمٍ إِلاَّ قَلِيلاً ، وهذا قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. He is given up to two hundred of the *zakāh*[976] but it should not amount to two hundred[977] unless the person is in debt,[978] in which case he should be given the amount of his debt and the remains of two hundred dirhams except for a little, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ زَكَاةِ الإِبِلِ

91. THE *ZAKĀH* OF CAMELS

٣١٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ أَنَّهُ قَالَ : فِي خَمْسٍ من الإِبِلِ شَاةٌ إِلَى تِسْع ، فَإِذَا زَادَتْ وَاحِدَةٌ فَفِيهَا شَاتَانِ إِلَى أَرْبَعَ عَشَرَةَ ، فَإِذَا زَادَتْ وَاحِدَة فَفِيهَا ثَلَاثُ شِيَاهٍ إِلَى تِسْعَ عَشَرَةَ ، فَإِذَا زَادَتْ وَاحِدَة فَفِيهَا أَرْبَعُ شِيَاهٍ إِلَى أَرْبَع وَعِشْرِينَ ، فَإِذَا زَادَتْ وَاحِدَة فَفِيهَا ابنَةُ مَخَاضٍ إِلَى خَمْسٍ وَثَلَاثِينَ ، فَإِذَا زَادَتْ وَاحِدَة فَفِيهَا ابْنَةُ لَبُونٍ إِلَى خَمْسٍ وَأَرْبَعِينَ ، فَإِذَا زَادَتْ وَاحِدَة فَفِيهَا حِقَّةٌ إِلَى سِتِّينَ ، فَإِذَا زَادَتْ وَاحِدَة فَفِيهَا جَذْعَةٌ إِلَى خَمْسٍ وَسَبْعِينَ ، فَإِذَا زَادَتْ وَاحِدَة فَفِيهَا بِنْتَا لَبُونٍ إِلَى تِسْعِينَ ، فَإِذَا زَادَتْ وَاحِدَة فَفِيهَا حِقَّتَانِ إِلَى عِشْرِينَ وَمِائَةٍ ، ثُمَّ تُسْتَقْبَلُ الْفَرِيضَةُ ، فَإِذَا كَثُرَتِ الأَبِلُ فَفِي كُلِّ خَمْسِينَ حِقَّةٌ .

317. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿAbdullāh ibn Masʿūd ؓ said, ‘From five[979] up to

nine camels a ewe is due. When they increase by one up until there are fourteen camels, two ewes are due. If they increase by one, up until there are nineteen camels, three ewes are due. If they increase by one, up until there are twenty-four camels, four ewes are due. If they increase by one up until there are thirty-five then a young female camel in its second year[980] is due. If they increase by one, up until there are forty-five, a young female camel in its third year[981] is due. If they increase by one, up until there are sixty, a female camel in its fourth year[982] is due. If they increase by one, up until they are seventy-five, then a female camel in its fifth year[983] is due. If they increase by one, up until they are ninety, then two young female camels in their third years are due. If they increase by one, up until they are one hundred and twenty, then two female camels in their fifth year are due. Then the cycle restarts,[984] so that when there are many camels, out of every fifty, a female camel in its fifth year is due.’”[985]

قَالَ مُحَمَّدٌ : وبِهذَا كُلِّهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to all of this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٣١٨– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ أَنَّهُ قَالَ : فِي مِائَةٍ وَخَمْسَةٍ وَعِشْرِينَ من الإِبل حِقَّتَانِ وَشَاةٌ ، وَفِي الثَّلاثِينَ وَ الْمِائَةِ حِقَّتَانِ وَشَاتَانِ ، وَفِي خَمْسٍ وَّثَلاثِينَ وَمِائَةٍ حِقَّتَانِ وَثَلاثُ شِيَاهٍ ، وَفِي أَرْبَعِينَ وَمِائَةٍ حِقَّتَانِ وَأَرْبَعُ شِيَاهٍ ، وَفِي خَمْسٍ وَّأَرْبَعِينَ وَمِائَةٍ حِقَّتَانِ وَابْنَةُ مُخَاضٍ ، وَفِي خَمْسِينَ وَمِائَةٍ ثَلاثُ حِقَاقٍ .

318. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿAbdullāh ibn Masʿūd ﵁ said, ‘From one hundred and twenty-five camels, two female camels in their fifth year and a ewe are due. From one hundred and thirty camels, two female camels in their fifth year and two ewes are due. From one hundred

and thirty-five camels, two female camels in their fifth year and three ewes are due. From one hundred and forty camels, two female camels in their fifth year and four ewes are due. From one hundred and forty-five camels, two female camels in their fifth year and a female camel in its second year are due. On one hundred and fifty, three female camels in their fourth year are due.'"[986]

قَالَ مُحَمَّدٌ : وبهذا كُلِّهِ نَأْخُذُ ، ثُمَّ تُسْتَقْبَلُ الْفَرِيضَةُ أَيْضًا ، فَإِذَا بَلَغَتْ خَمْسِينَ أُخْرى
كَانَتْ فِيهَا حِقَّةٌ ثُمَّ تُسْتَقْبَلُ الْفَرِيضَةُ، وَهَذَا كُلُّهُ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, "We adhere to all of this. Then also the cycle restarts, so that when they reach another fifty a camel in its fourth year is due, and then the cycle restarts. All of this is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

◆

بَابُ زَكَاةِ الْغَنَمِ

92. ZAKĀH ON SHEEP AND GOATS

٣١٩- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ
رَضِيَ اللَّهُ عَنْهُ أَنَّهُ قَالَ: لَيْسَ فِي أَقَلَّ مِنَ الْأَرْبَعِينَ من الْغَنَم زكَاةٌ، فَإِذَا كَانَتْ أَرْبَعِينَ فَفِيهَا
شَاةٌ إِلَى مِائَةٍ وَّعِشْرِينَ ، فَإِذَا زَادَتْ وَاحِدَة فَفِيها شَاتَانِ إِلَى مِائَتَيْنِ، فَإِذَا زَادَتْ وَاحِدَةٌ
عَلَى مِائَتَيْنِ فَفِيهَا ثَلَاثُ شِيَاهٍ إِلَى ثَلَاث مِائَةٍ، فَإِذَا كَثُرَتِ الْغَنَمُ فَفِي كُلِّ مِائَةٍ شَاةٌ.

319. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿAbdullāh ibn Masʿūd said, 'There is no *zakāh* on less than forty sheep and goats, and when there are forty, one ewe is due, up until there are one hundred and twenty. When they increase

by one up until there are two hundred, two ewes are due. When they increase by one over the two hundred up until there are three hundred, three ewes are due.[987] When then are many sheep, a ewe is due on every hundred.’”[988]

قَالَ مُحَمَّدٌ : وبِهذَا نَأْخُذُ ، وهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٣٢٠– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا عَطَاءُ بْنُ السَّائِبِ عَنِ الْحَسَنِ عَنْ عُمَرَ بْنِ الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ أَنَّهُ بَعَثَ سَعْدًا أَوْ سَعِيدَ بْنَ مَالِكٍ مُصَدِّقًا ، فَأَتَى عُمَرَ رَضِيَ اللَّهُ عَنْهُ يَسْتَأْذِنُه فِي جِهَادٍ ، فَقَالَ : أَوَلَسْتَ فِي جِهَادٍ ؟ قَالَ : وَمِن أَيْنَ وَالنَّاسُ يَزْعُمُونَ أَنِّي أَظْلِمُهُمْ؟ قَالَ: وَمِمَّا ذَلِكَ؟ قَالَ : يَقُولُونَ: تَحْسُبُ عَلَيْنَا السَّخْلَةَ فِي الْعَدَدِ ، قَالَ: احْسُبْهَا وَإِنْ جَاءَ بِهَا الرَّاعِي عَلَى كَتِفِه ، أَوَ لَسْتَ تَدَعُ لَهُمُ الْمَاخِضَ وَالرُّبَّى؟ وَ الأَثِيلَةَ ، وَ تَيسَ الْغَنَمِ؟

320. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘ʿAṭā’ ibn as-Sā’ib narrated to us from al-Ḥasan that ʿUmar ibn al-Khaṭṭāb ؓ sent Saʿd – or Saʿīd – ibn Mālik[989] as a *zakāh* collector, but he came to ʿUmar ؓ seeking his permission to go on jihad, so he said to him, “Are you not on jihad?[990]” He said, “From where? People claim that I wrong them.” He said, “For what reason?” He said, “They say, ‘You reckon the lambs and kids among the total.’” He said, “Reckon it so, even if the shepherd comes with it on his shoulder. Do you not leave for them those pregnant ones on the point of giving birth (*mākhiḍ*),[991] those which are suckling (*rubbā*),[992] the *athīlah*, and he-goats?”’”[993] [994]

قَالَ مُحَمَّدٌ : وبِهذَا نَأْخُذُ ، وَالْمَاخِضُ : الَّتِي فِي بَطْنِهَا وَلَدُهَا ، وَالرُّبَّي : الَّتِي تُرَبِّي وَلَدَهَا ، وَ الأَثِيلَةُ : الَّتِي تُسْمِن لِلأَكْلِ ، وَإِنَّمَا يَنْبَغِي لِلْمُصَدِّقِ أَنْ يَأْخُذَ من أَوْسَطِ الْغَنَمِ ، يَدَعُ الْمُرْتَفِعَ وَالرُّذَالَ . وَيَأْخُذُ من الأَوْسَاطِ الْبَيْنِ فَصَاعِدًا .

Muḥammad said, “We adhere to this. The *mākhiḍ* is the one in whose womb is a lamb or kid, the *rubbā* is the one raising and suckling its young, and the *athīlah* is the one being fattened for eating. The *zakāh* collector ought only to take middling kinds of sheep and goats, leaving both good quality and poor quality creatures, and taking clearly middling creatures and upwards.”

◆

بَابُ زَكَاةِ الْبَقَرِ

93. ZAKĀH ON OXEN

٣٢١– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : لَيْسَ فِي أَقَلَّ مِن ثَلاثِينَ مِن الْبَقَرِ شَيْءٌ ، فَإِذَا كَانَتْ ثَلاثِينَ من الْبَقَرِ فَفِيهَا تَبِيعٌ أَوْ تَبِيعَةٌ إِلَى أَرْبَعِينَ ، فَإِذَا كَانَتْ أَرْبَعِينَ فَفِيهَا مُسِنَّةٌ ، ثُمَّ مَا زَادَ فَبِحِسَابِ ذَلِك .

321. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘There is nothing on less than thirty oxen, but if they are thirty oxen up until they are forty, a male or female that has just begun its second year (*tābiʿ*)[995] is due. If they are forty, a three-year old female (*musinnah*) is due. Then as much as they increase in number it is reckoned according to that.’”[996]

قَالَ مُحَمَّدٌ : وَبِهَذَا كُلِّه كَانَ يَأْخُذُ أَبُو حَنِيفَةَ ، وَأَمَّا فِي قَوْلِنَا فَلَيْسَ فِي الزِّيَادَةِ عَلَى الأَرْبَعِينَ شَيْءٌ حَتَّى تَبْلُغَ الْبَقَرُ سِتِّينَ ، فَإِذَا بَلَغَتْ سِتِّينَ كَانَ فِيهَا تَبِيعَانِ أَوْ تَبِيعَتَانِ ، وَالتَّبِيعُ الْجَذَعُ الْحَوْلِيُّ ، وَالْمُسِنَّةُ الثَّنِيَّةُ فَصَاعِدًا .

Muḥammad said, “Abū Ḥanīfah used to adhere to all of this, but as for our verdict there is nothing due in any increase over[997] forty until they amount to sixty oxen. When there are sixty then two male or female calves that have just entered their second year (*tābiʿ*) are due. The *tābiʿ* is the yearling, and the *musinnah* is one in the third year and upwards.”

◆

بَابُ الرَّجُلِ يَجْعَلُ مَالَه لِلْمَسَاكِينِ

94. A MAN WHO GIVES ALL HIS WEALTH FOR THE BEREFT

٣٢٢– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا جَعَلَ الرَّجُلُ مَالَه فِي الْمَسَاكِينِ صَدَقَةً فَلْيَنْظُرْ إِلَى مَا يَسَعُه وَيَسَعُ عِيَالَه ، فَلْيُمْسِكْه وَلْيَتَصَدَّقْ بِالْفَضْلِ ، فَإِذَا أَيْسَرَ تَصَدَّقَ بِمِثْلِ مَا أَمْسَكَ .

322. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man gives all his wealth to the bereft, then he has to investigate what will suffice him and his dependents, keep that, and give what is beyond that as *ṣadaqah*. If it is easier, he may give as *ṣadaqah* an amount similar to what he retains.’”[998]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى . و إنما عَلَيْهِ أَنْ يَتَصَدَّقَ من مَالِه بِأَمْوَالِ الزَّكَاةِ الذَّهَبِ، وَالْفِضَّةِ، وَالْمَتَاعِ لِلتِّجَارَةِ، وَالإِبِلِ، وَالْبَقَرِ، وَالْغَنَمِ السَّائِمَةِ، فَأَمَّا الْمَتَاعُ، وَالرَّقِيقُ وَالدُّورُ، وَغَيْرُ ذَلِكَ مِمَّا لَيْسَ لِلتِّجَارَةِ فَلَيْسَ عَلَيْهِ أَنْ يَتَصَدَّقَ بِهِ إِلاَّ أَنْ يَكُونَ عَنَاهُ فِي يَمِينِه .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him. He is only obliged to give *ṣadaqah* from his property with the forms of wealth upon which *zakāh* is due: gold, silver, goods held for trade, camels, oxen and pasturing sheep and goats. As for household goods, slaves, dwellings and other things that are not held for trade, he does not have to give them as *ṣadaqah* unless he had intended it in his oath.”

[920] A *mithqāl* [is synonymous here with a gold dinar and] is a gold piece, seven of which are equal in weight to 10 dirhams [silver coins], and that is the well-known position. [The dinar of the *Sharīʿah*, as defined by the right-acting of the first generations, is 4.235 grams and ca. 23 millimetres in diameter. The dirham is 2.9645 grams and ca. 25 millimetres in diameter. – Trans.]

[921] Because of his words ﷺ in the hadith of ʿAlī ؓ, “Whatever is above the two hundred is reckoned by its [the two hundred’s] calculation.” Narrated by Abū Dāwūd.

[922] Abū Yūsuf narrated it on p.88 or p.89.

[923] Because of his words ﷺ in the hadith of Muʿādh ؓ, “Don’t take anything from the fractional amounts.” Ad-Dāraquṭnī narrated it.

[924] In which two *qīrāṭ* are to be paid over, and in every *mithqāl* there are twenty *qīrāṭ*.

[925] Because of his words ﷺ, “The pen has been lifted from three: from the sleeping person until he awakens, from the child until it attains puberty and from the insane until they recover,” and because *zakāh* is an act of worship which is only discharged voluntarily and a child has no choice because of not having complete intellect. Ash-Shāfiʿī, Mālik and Aḥmad said that he must pay *zakāh* and that is the verdict of Ibn ʿUmar ؓ and ʿĀ’ishah ؓ.

[926] Abū Yūsuf narrated it on p.92.

[927] Abū Yūsuf narrated the like of it on p.92.

[928] A debt whose payment is demanded by other slaves of Allah but not precluding a debt owed because of a vow or an expiation.

[929] Abū Yūsuf narrated it on p.88.

[930] Abū Yūsuf narrated the like of it on p.88.

[931] In the *Āthār* of Abū Yūsuf it is that, “The wife of Ibn Masʿūd ؓ said to him.”

[932] “Would it suffice me if I paid the *zakāh* to them and spent it upon them?”

[933] Abū Yūsuf narrated it on p.89.

[934] Because the benefits of transferral of ownership are interconnected between the two of them so that transferring ownership would not be completely realised.

[935] Because ordinarily the two of them will share in the benefits.

[936] Because of his saying ﷺ, “You will have two rewards: the reward of the *ṣadaqah* and the reward of the tie of kinship,” which he said to the wife of Ibn Masʿūd when she asked him about giving *ṣadaqah*. We say that it is to be interpreted as referring to optional [*ṣadaqah* and not *zakāh*].

[937] Mālik and ash-Shāfiʿī said that there is no *zakāh* on jewellery, but our *madhhab* is that it is incumbent to pay *zakāh* on it because of the hadith of ʿAmr ibn Shuʿayb in which there is, “So pay its *zakāh*.” At-Tirmidhī narrated it.

[938] Abū Yūsuf narrated it on p.89.

[939] Ash-Shāfiʿī ؒ said that in all of that one pays a *ṣāʿ*. Ibn al-Hamām mentioned from Mujāhid who said, “Every thing apart from wheat has a *ṣāʿ* and wheat has a half of a *ṣāʿ*.” Aṭ-Ṭaḥāwī narrated it from a large body of people.

[940] Abū Yūsuf narrated the like of it on p.64.

[941] Because it and wheat are close in meaning since all the parts of each of them are eaten entirely, whereas the date stone is discarded as is the bran of the barley.

[942] Since raisins and dates are close together in purpose.

[943] That which the slave pays to his master of a confirmed tax due from him. There is no disagreement that there is no *zakāh* to be paid on slaves unless they have been bought for trade. [Slaves can be allowed to go to work in the world on the condition that they pay a regular sum to their owners. Interestingly, this impost is called *ḍarībah*, the modern Arabic term for a tax.] – Trans.

[944] Those that pasture for most of the year.

[945] i.e., “O questioner.” Ḥammād, Abū Ḥanīfah and Zufar regarded the *zakāh* on horses to be obligatory if they were females and males, however if they were separate, then the females have to have *zakāh* paid on them but not the males. They proved that by that

which ad-Dāraquṭnī narrated from Jābir as a *marfūʿ* hadith concerning grazing horses, “On every horse there is due a dinar” and being given the choice between the dinar and establishing the value [of the horse] is narrated of ʿUmar ﵁.

[946] Abū Yūsuf narrated it on p.87.

[947] And Abū Yūsuf gave that verdict as did Mālik and ash-Shāfiʿī. And in *al-Yanābīʿ* there is that the *fatwā* is given on this basis.

[948] Abū Dāwūd and at-Tirmidhī narrated it.

[949] Those which are for the purposes of riding.

[950] Those which are for the purpose of service.

[951] Abū Dāwūd narrated it under “*zakāh”* in the chapter on “the *zakāh* of beasts let out to pasture,” and at-Tirmidhī under “*zakāh”* in the chapter on “what has been narrated about the *zakāh* of gold and silver,” and an-Nasā’ī under “*zakāh”* in the chapter on “the *zakāh* of silver.”

[952] Imam Abū Ḥanīfah interpreted it as referring to the horse taken for military expeditions, and that is narrated of Ibn ʿAbbās ﵄, and it comprises males and females.

[953] If he is not purchased for the sake of trade.

[954] Al-Bukhārī narrated it under “*zakāh”* in the chapter “the Muslim owes no *ṣadaqah* on his horse,” and Muslim under “*zakāh”* in the chapter, “there is no *zakāh* owed by a Muslim on his slave and his horse.”

[955] Because of his words ﷺ, “Nothing has been revealed to me about the two of them.”

[956] Abū Yūsuf narrated the like of it on p.87 from ʿAlī.

[957] Whether little or a large amount.

[958] The effort is greater in these cases and less in that watered by rain or running water. If it is watered by rain or waterwheel what is taken into account is that it is the greater part of the year.

[959] Abū Yūsuf narrated it on p.90.

[960] Every plant on which man nourishes himself.

[961] *ruṭāb* refers to what cannot be stored and doesn’t endure, such as sweet fruit. [Even a certain species of date that cannot be dried. – Trans.]

[962] And the definition of its enduring is that it should last for a year in the main without a great deal of treatment, such as wheat and barley.

[963] Because of his saying ﷺ, “There is no *zakāh* on anything less than five *wasqs*, but according to Abū Ḥanīfah because of his saying ﷺ, “That which the earth produces has due on it a tenth,” without distinction.

[964] The *raṭl* is both a weight and a volumetric measure which Lane translates as both a pound and a pint, and according to the Baghdad measure is twelve *ūqiyyah.*

[965] Abū Yūsuf narrated it on p.91.

[966] Jāmiʿ ibn Shaddād.

[967] A city close to al-Anbār both of which are to the west of Kufa from which sugar cane and dates are transported to all other lands. It is very old and the Muslims opened it [to Islam] in the days of Abū Bakr ﵁.

[968] Abū Yūsuf narrated it on p.90.

[969] Abū Yūsuf narrated it on p.90.

[970] *kharāj* is what is taken from the crops of people of the *dhimmah.*

[971] *muqātalah* is combat or struggle.

[972] A man wanted to give Ibrāhīm the *zakāh* on his wealth in the form of four hundred dirhams, but he refused to accept it, and so Ibrāhīm went with him to show him, as is in the *Āthār* of Abū Yūsuf.

[973] He had given to each member of the household ten dirhams.

[974] To enrich them so as to have no need to beg, because to enrich someone so much that they come to possess the amount which would render them liable for *zakāh* is disapproved.

[975] Abū Yūsuf narrated it on p.91.

[976] In *al-Hidāyah* there is, “It is disapproved to pay two hundred dirhams or more to a single person, but it is valid if one does it.”

[977] Two hundred dirhams is the amount on which *zakāh* becomes due in itself, so the amount given should not reach that.

[978] i.e., unless the indebted person’s debt is more than or equal to his entire wealth.

[979] On less than five there is no *zakāh*, but when it amounts to five camels and a year passes [then *zakāh* is due].

[980] *ibnata makhāḍ*: literally daughter of one pregnant, thus named after its mother because its mother became pregnant with another, and so this camel is one which has entered into its second year.

[981] *ibnata labūn*: literally daughter of a milk camel, thus named after its mother because its mother is suckling another, and so this camel is one which has entered into its third year.

[982] *ḥiqqah*: literally fit to be laden, thus named because it is fit to be mounted and to be laden, and it is the one which has entered into its fourth year.

[983] *jadhʿah*, thus named because its milk teeth have come out, and it is the one which has entered in its fifth year.

[984] When it reaches a hundred and fifty then three camels in their fourth year are due, and then one restarts the cycle, until when it reaches one hundred and ninety-six, then four camels in their fourth year are due, up until the number is two hundred, and then again the cycle restarts endlessly, just as it did for fifty after the hundred and fifty.

[985] Abū Yūsuf narrated it on p.65 from Ibrāhīm as a *mawqūf* statement, and al-Bukhārī narrated it as a *marfūʿ* hadith in places in his book on *zakāh*.

[986] Abū Yūsuf narrated it on p.85 as a *mawqūf* statement of Ibrāhīm.

[987] When they amount to four hundred, four ewes are due, and then one ewe is due on every hundred.

[988] Abū Yūsuf narrated it on p.85 as a *mawqūf* statement of Ibrāhīm.

[989] The Ḥāfiẓ said, "I think it was Saʿd ibn Mālik ibn Sinān the father of Abū Saʿīd al-Khudrī."

[990] According to ʿAbd ar-Razzāq, "Are you contented that you are like the warrior in the way of Allah?" Then he said, "How can I be that when they claim that we wrong them?" He said, "They say what?"

[991] It is the pregnant one. In *an-Nihāyah* it is the one in the pangs of birth.

[992] The one which has given birth and is fostering its young.

[993] Male goats and gazelles.

[994] Abū Yūsuf narrated it on p.86 and in it there is Sufyān ibn Mālik instead of Saʿd or Saʿīd ibn Mālik. (In the *takhrīj* there is ibn Māhik or something else in every case, but the text is clear that it is Mālik in the case of Saʿd or Saʿīd. – Ed.)

[995] The *tābiʿ* "follower", is the one which has entered into its second year and is so named because it follows (*tabaʿa*) its mother around.

[996] Abū Yūsuf narrated it on p.86.

[997] Because of his words ﷺ to Muʿādh, "Do not take anything from the fractional amounts (*awqāṣ*) of oxen," which they explained as referring to what is between forty up to sixty, but some have said that what are meant here are the small [or young] ones.

[998] Abū Yūsuf narrated it on p.92.

THE BOOK OF THE RITES (OF HAJJ)

بَابُ الإِحْرَامِ وَالتَّلْبِيَةِ

95. *IḤRĀM* AND CALLING OUT *LABBAYK*

٣٢٣- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ سَعِيدِ بْنِ جُبَيْرٍ قَالَ : لَمَّا انْبَعَثَ بِهِ بَعِيرُهُ قَالَ : لَبَّيْكَ اللَّهُمَّ لَبَّيْكَ ، لَبَّيْكَ لَا شَرِيكَ لَكَ لَبَّيْكَ ، إِنَّ الْحَمْدَ وَالنِّعْمَةَ لَكَ ، وَالْمُلْكَ ، لَا شَرِيكَ لَكَ ، لَبَّيْكَ إِلَهَ الْحَقِّ لَبَّيْكَ ، غَفَّارَ الذُّنُوبِ لَبَّيْكَ .

323. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Saʿīd ibn Jubayr said when his camel rose to set off with him, 'At Your service O Allah, at Your service, You have no partner, at Your service. Praise and blessing are Yours and the kingdom, You have no partner. At Your service, God of the Truth, at Your service, Repeatedly Forgiving of wrong actions, at Your service.'"[999]

قَالَ مُحَمَّدٌ : إِنْ شَاءَ الرَّجُلُ أَحْرَمَ حِينَ يَنْبَعِثُ بِهِ بَعِيرُهُ ، وَإِنْ شَاءَ فِي دُبُرِ صَلَاتِهِ . وَالتَّلْبِيَةُ الْمَعْرُوفَةُ إِلَى قَوْلِهِ : ﴿ وَالْمُلْكُ ، لَا شَرِيكَ لَكَ ﴾ فَمَا زِدْتَ فَحَسَنٌ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "If the man wishes he may enter *iḥrām*[1000] when his camel rises to set off with him, or if he wishes after his prayer.[1001] The well-known form of the *labbayk* is up until his words, 'and the kingdom, You have no partner,' and what is over that[1002] is good. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٣٢٤- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ: حَدَّثَنَا عُبَيْدُ اللَّهِ بْنُ عُمَرَ عَنْ نَافِعٍ عَنِ ابْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا قَالَ : قَالَ لَهُ رَجُلٌ: يَا أَبَا عَبْدِ الرَّحْمَنِ رَأَيْتُكَ تَصْنَعُ أَرْبَعَ خِصَالٍ، قَالَ: مَا هُنَّ ؟ قَالَ رَأَيْتُكَ حِينَ أَرَدْتَّ أَنْ تُحْرِمَ رَكِبْتَ رَاحِلَتَكَ، ثُمَّ اسْتَقْبَلْتَ الْقِبْلَةَ، ثُمَّ أَحْرَمْتَ حِينَ انْبَعَثَ بِكَ بَعِيرُكَ، وَرَأَيْتُكَ إِذَا طُفْتَ بِالْبَيْتِ لَمْ تُجَاوِزِ الرُّكْنَ الْيَمَانِيَّ حَتَّى تَسْتَلِمَهُ، وَرَأَيْتُكَ تُلَوِّنُ لِحْيَتَكَ بِالصُّفْرَةِ، وَرَأَيْتُكَ تَتَوَضَّأُ فِي النِّعَالِ السِّبْتِيَّةِ، قَالَ: إِنِّي رَأَيْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَصْنَعُ ذَلِكَ كُلَّهُ فَصَنَعْتُهُ.

324. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘ʿUbaydullāh ibn ʿUmar narrated to us from Nāfiʿ that a man said to Ibn ʿUmar ﵄, “Abū ʿAbd ar-Raḥmān, I saw you doing four things.” He said, “What are they?” He said, “I saw that when you intended to enter *iḥrām* you got up on your mount, then you faced the *qiblah* and then you entered *iḥrām* when your camel set off with you. I saw that when you went around the House in *ṭawāf*, you didn’t pass the Yemeni corner[1003] until you had saluted it.[1004] I saw you had dyed your beard with yellow, and I saw you performing *wuḍū’* in a pair of soft hairless ox-leather sandals.”[1005] He said, “I saw the Messenger of Allah ﷺ doing all of those things and so I have done them.”’”

قَالَ مُحَمَّدٌ : وبِهذا كُلِّه نَأْخُذُ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, “We adhere to all of this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

بَابُ الْقِرَانِ وَ فَضْلِ الْإِحْرَام

96. THE *QIRĀN* [HAJJ] AND THE MERIT OF *IḤRĀM*

٣٢٥– مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ: حَدَّثَنَا منصورُ بْنُ الْمُعْتَمِرِ عَنْ إِبْرَاهِيمَ النَّخَعِيِّ عَنْ أَبِي نَصْرٍ السُّلَمِيِّ عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ رَضِيَ اللَّهُ عَنْهُ قَالَ : إِذَا أَهْلَلْتَ بِالْحَجِّ وَالْعُمْرَةِ فَطُفْ لَهُمَا طَوَافَيْنِ، وَاسْعَ لَهُمَا سَعْيَيْنِ بِالصَّفَا وَالْمَرْوَةِ. قَالَ منصورٌ: فَلَقِيتُ مُجَاهِداً وَهُوَ يُفْتِي بِطَوَافٍ وَاحِدٍ لِمَن قَرَنَ، فَحَدَّثْتُهُ بِهَذَا الْحَدِيثِ، فَقَالَ: لَوْ كُنْتُ سَمِعْتُ لَمْ أُفْتِ إِلَّا بِطَوَافَيْنِ، وَأَمَّا بَعْدَ الْيَوْمِ فَلَا أُفْتِي إِلَّا بِهِمَا.

325. Muḥammad said, "Abū Ḥanīfah informed us saying, 'Manṣūr ibn al-Muʿtamir narrated to us from Ibrāhīm an-Nakhaʿī from Abū Naṣr as-Sulamī that ʿAlī ibn Abī Ṭālib ؓ said, "Whenever you enter upon Hajj and ʿUmrah together then perform two sets of *ṭawāf*[1006] for them and two sets of *saʿy* between Ṣafā and Marwah." Manṣūr said, "I met Mujāhid who has giving the *fatwā*[1007] that whoever performed the *qirān* form of Hajj [coupling it with ʿUmrah in the same *iḥrām*] should perform a single set of *ṭawāf* and so I narrated this hadith to him. He said, 'If I had heard, I would only have given the *fatwā* that one should perform two sets of *ṭawāf*, and after today I will only pass such a *fatwā*.'"'"[1008]

قَالَ مُحَمَّدٌ: وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

٣٢٦– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ طَاوُسٍ قَالَ : لَوْ حَجَجْتُ أَلْفَ حَجَّةٍ لَمْ أَدَعِ الْقِرَانَ حَتَّى لَقَدْ كُنَّا نَدْعُوهُ الْحَجَّ الْأَكْبَرَ، وَالْحَجَّ الْأَصْغَرَ، وَنَرَى أَنَّ حَجَّ مَنْ لَمْ يَقْرِنْ لَمْ يَكْمُلْ.

326. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ṭāwus said, 'Even if I were to perform a thousand Hajjs I would

not give up[1009] *qirān*, so much so that we used to call it the Greater Hajj and the Lesser Hajj, and we thought that the Hajj of the person who did not do *qirān* was not complete.'"[1010]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، الْقِرَانُ عِنْدَنَا أَفْضَلُ من غَيْرِه ، وَكُلٌّ جَمِيلٌ حَسَنٌ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ .

Muḥammad said, "We adhere to this. In our view, *qirān* is better than others, but they are all beautiful and good, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

٣٢٧- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ عُمَرَ بْنِ الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ أَنَّهُ إِنَّمَا نَهَى عَنِ الْإِفْرَادِ ، فَأَمَّا الْقِرَانُ فَلَا. يَعْنِي بِقَوْلِه: ﴿نَهَى عَنِ الْإِفْرَادِ﴾ افْرَادَ الْعُمْرَةِ.

327. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿUmar ibn al-Khaṭṭāb ؓ only forbade *ifrād*[1011] but not coupling Hajj with ʿUmrah (*qirān*). By saying, 'he forbade *ifrād*,' he meant doing only ʿUmrah."[1012] [1013]

٣٢٨- مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ: حَدَّثَنَا عَمْرُو بْنُ مُرَّةَ عَنْ عَبْدِ اللَّهِ بْنِ سَلَمَةَ عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ رَضِيَ اللَّهُ عَنْهُ قَالَ: تَمَامُ الْحَجِّ وَالْعُمْرَةِ أَنْ تُحْرِمَ بِهِمَا مِن جَوْفِ دُوَيْرَتِكَ.

328. Muḥammad said, "Abū Ḥanīfah informed us saying, "ʿAmr ibn Murrah narrated to us from ʿAbdullāh ibn Salamah that ʿAlī ibn Abī Ṭālib ؓ said, "The perfection of Hajj and ʿUmrah is that you enter *iḥrām* for both of them inside your house.""""[1014] [1015]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، مَا عَجَّلْتَ مِنَ الإِحْرَامِ فَهُوَ أَفْضَلُ إِنْ مَلَكْتَ نَفْسَكَ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. If you hasten *iḥrām* it is better, if you have mastery over yourself,[1016] and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٣٢٩- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا شَيْخٌ من رَبِيعَةَ عَنْ مُعَاوِيَةَ بْنِ إِسْحَاقَ الْقُرَشِيِّ قَالَ : إِنَّ الْحَاجَّ مَغْفُورٌ له وَلِمن اسْتَغْفَرَ لَهُ إِلَى انْسِلاخِ الْمُحَرَّمِ .

329. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘A shaykh from Rabīʿah narrated to us that Muʿāwiyah ibn Isḥāq al-Qurashī said “The person who goes on Hajj is forgiven as is the person for whom he seeks forgiveness, until the end of Muḥarram.”’”[1017]

٣٣٠- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا أَيُّوبُ بْنُ عَائِذٍ الطَّائِيُّ عَنْ مُجَاهِدٍ قَالَ : حَاجُّ بَيْتِ اللَّهِ وَالْمُعْتَمِرُ وَالْمُجَاهِدُ فِي سَبِيلِ اللَّهِ وَفْدُ اللَّهِ ، دَعَاهُمْ فَأَجَابُوهُ ، وَيُعْطِيهِمْ مَا سَأَلُوهُ .

330. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ayyūb ibn ʿĀ’idh aṭ-Ṭā’ī narrated to us that Mujāhid said, “The person performing the Hajj to the House of Allah, the person performing ʿUmrah and the person waging jihad in the way of Allah are ambassadors for Allah; He called them and they responded to Him, and He gives them what they ask Him for.”’”[1018]

٣٣١– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ: حَدَّثَنَا مُحَمَّدُ بْنُ مَالِكٍ الْهَمْدَانِيُّ عَنْ أَبِيهِ قَالَ: خَرَجْنَا فِي رَهْطٍ يُرِيدُ مَكَّةَ حَتَّى إِذَا كُنَّا بِالرَّبْذَةِ رُفِعَ لَنَا خِبَاءٌ فَإِذَا فِيهِ أَبُوذَرٍّ الْغِفَارِيُّ رَضِيَ اللَّهُ عَنْهُ ، فَأَتَيْنَاهُ، فَسَلَّمنا عَلَيْهِ، فَرَفَعَ جَانِبَ الْخِبَاءِ، فَرَدَّ السَّلَامَ ، فَقَالَ: من أَيْنَ أَقْبَلَ الْقَوْمُ؟ فَقُلْنَا : من الْفَجِّ الْعَمِيقِ ، قَالَ : فَأَيْنَ تَؤُمُّونَ؟ قَالُوا : الْبَيْتَ الْعَتِيقَ ، قَالَ : آللهِ الَّذِي لا إِلَهَ إِلَّا هُوَ ! مَا أَشْخَصَكُمْ غَيْرُ الْحَجِّ ؟ فَكَرَّرَ ذَلِكَ عَلَيْنَا مِرَارًا ، فَحَلَفْنَا بِهِ، فَقَالَ : انْطَلِقُوا نُسُكَكُمْ ثُمَّ اسْتَقْبِلُوا الْعَمَلَ.

331. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Muḥammad ibn Mālik al-Hamdānī narrated to us that his father said, “We went out in a party[1019] intending to go to Makkah. When we reached ar-Rabdhah[1020] a tent appeared before us, and there was Abū Dharr al-Ghifārī ؓ in it. We went to him and greeted him, and he lifted a side of the tent[1021] and returned our greeting. He said, ‘From where have the people come?’ and we said, ‘from the distant road.’[1022] He asked, ‘Where are you going?’ They said, ‘The Ancient House.’ He said, ‘By Allah, He Whom there is no god but Him! Nothing but the Hajj moved you to go forth?’ And he repeated that to us several times, and we swore to it, so he said, ‘Depart to your rites[1023] and then turn to face work.’”’”[1024]

◆

بَابُ الطَّوَافِ وَالْقِرَاءَةِ فِي الْكَعْبَةِ

97. *ṬAWĀF* AND RECITATION AT THE KAʿBAH

٣٣٢ – مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ : أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ رَمَلَ من الْحَجَرِ إِلَى الْحَجَرِ.

332. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that the Messenger of Allah ﷺ walked briskly[1025] from the Stone to the Stone.”[1026]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٣٣٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ رَجُلٍ عَنْ عَطَاءِ بْنِ أَبِي رَبَاحٍ قَالَ : رَمَلَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ من الْحَجَرِ إِلَى الْحَجَرِ .

333. Muḥammad said, “Abū Ḥanīfah informed us from a man that ʿAṭāʾ ibn Abī Rabāḥ said, ‘The Messenger of Allah ﷺ walked briskly from the Stone to the Stone.’”[1027]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، الرَّمَلُ فِي الأَشْوَاطِ الثَّلاثَةِ الأُوَلِ من الْحَجَرِ الأَسْوَدِ حِينَ يَبْتَدِئُ الطَّوَافَ حَتَّى يَنْتَهِيَ إِلَيْهِ ثَلاثَةَ أَطْوَافٍ كَامِلَةٍ ، وَيَمْشِي الأَرْبَعَةَ الأَوَاخِرَ مَشْياً عَلَى هِينَتِهِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. Walking briskly takes place in the first three circuits from the Black Stone when one begins the *ṭawāf* until one ends at it with three complete circuits, walking the last four at one’s ordinary pace,[1028] and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٣٣٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ أَنَّهُ سَعَى بَيْنَ الصَّفَا وَالْمَرْوَةِ مَعَ عِكْرِمَةَ ، فَجَعَلَ حَمَّادٌ يَصْعَدُ الصَّفَا وَلَا يَصْعَدُهُ عِكْرِمَةُ ، وَيَصْعَدُ حَمَّادٌ الْمَرْوَةَ وَلَا يَصْعَدُهُ عِكْرِمَةُ . قَالَ : فَقُلْتُ : يَا أَبَا عَبْدِ اللَّهِ : أَلَا تَصْعَدُ الصَّفَا وَالْمَرْوَةَ ؟ فَقَالَ : هَكَذَا طَوَافُ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ . قَالَ حَمَّادٌ : فَلَقِيتُ سَعِيدَ بْنَ جُبَيْرٍ ، فَذَكَرْتُ ذَلِكَ لَهُ ، فَقَالَ : إِنَّمَا طَافَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَلَى رَاحِلَتِهِ وَهُوَ شَاكٍ ، يَسْتَلِمُ الْأَرْكَانَ بِمِحْجَنٍ ، فَطَافَ بِالصَّفَا وَالْمَرْوَةِ عَلَى رَاحِلَتِهِ ، فَمِنْ أَجْلِ ذَلِكَ لَمْ يَصْعَدْ .

334. Muḥammad said, “Abū Ḥanīfah informed us that Ḥammād would perform the *saʿy* between Ṣafā and Marwah with ʿIkrimah, and Ḥammād would ascend Ṣafā but ʿIkrimah would not, and Ḥammād would ascend Marwah but ʿIkrimah would not. He [Ḥammād] said, ‘I said, “Abū ʿAbdullāh, do you not ascend Ṣafā and Marwah?” So he said, “Thus was the manner of walking of the Messenger of Allah ﷺ.”’ Ḥammād said, ‘I met Saʿīd ibn Jubayr and mentioned that to him and he said, “The Messenger of Allah ﷺ only performed *ṭawāf* mounted while complaining of a sickness, and he touched the corners with a crooked staff.[1029] He went between Ṣafā and Marwah mounted, and for that reason did not ascend.”’”

قَالَ مُحَمَّدٌ : وَبِقَوْلِ سَعِيدِ بْنِ جُبَيْرٍ نَأْخُذُ ، يَنْبَغِي لِلرَّجُلِ أَنْ يَصْعَدَ عَلَى الصَّفَا وَالْمَرْوَةِ ، فَيَسْتَقْبِلَ الْكَعْبَةَ حَيْثُ يَرَاهَا ، ثُمَّ يَدْعُوَ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to the verdict of Saʿīd ibn Jubayr. A man ought to ascend Ṣafā and Marwah, and then face towards the Kaʿbah where he can see it and supplicate, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٣٣٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ سَعِيدِ بْنِ جُبَيْرٍ أَنَّهُ قَرَأَ فِي الْكَعْبَةِ فِي الرَّكْعَةِ الْأُولَى بِالْقُرْآنِ ، وَفِي الرَّكْعَةِ الثَّانِيَةِ بِـ ﴿ قُلْ هُوَ اللَّهُ أَحَدٌ ﴾ .

335. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Saʿīd ibn Jubayr recited the Qur’ān at the Kaʿbah in the first *rakʿah* and in the second *rakʿah*, ‘*Say: He is Allah, Absolute Oneness….*’ (Sūrat al-Ikhlāṣ).”[1030]

قَالَ مُحَمَّدٌ : وَلَسْنَا نَرَى بِهَذَا بَأْساً إِذَا فَهِمَ مَا يَقُولُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We see no harm in this if he understands what he is saying, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

بَابُ مَتَى يَقْطَعُ التَّلْبِيَةَ ؟ وَالشَّرْطِ فِي الْحَجِّ

98. WHEN DOES ONE CEASE THE *LABBAYK*? AND MAKING STIPULATIONS CONCERNING THE HAJJ

٣٣٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : يَقْطَعُ الْمُحْرِمُ التَّلْبِيَةَ بِالْعُمْرَةِ إِذَا اسْتَلَمَ الْحَجَرَ ، وَيَقْطَعُ التَّلْبِيَةَ بِالْحَجِّ فِي أَوَّلِ حَصَاةٍ يَرْمِي بِهَا جَمْرَةَ الْعَقَبَةِ .

336. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘The person in *iḥrām* ceases saying “At Your service...” for the ʿUmrah when he salutes[1031] the Stone, and he ceases saying, “At Your service...” for the Hajj at the first pebble with which he pelts the pillar at al-ʿAqabah.’”[1032]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٣٣٧ – مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُوحَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يَشْتَرِطُ فِي الْحَجِّ قَالَ: لَيْسَ شَرْطُه بِشَيْءٍ.

337. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning the man who stipulates concerning the Hajj, ‘His stipulation is nothing.’”

قَالَ مُحَمَّدٌ: وَبِهِ نَأْخُذُ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ الْعُمْرَةِ فِي أَشْهُرِ الْحَجِّ وَغَيْرِهَا

99. ʿUMRAH IN THE MONTHS OF THE HAJJ AND AT OTHER TIMES

٣٣٨ – مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ إِذَا أَهَلَّ بِالْعُمْرَةِ فِي غَيْرِ أَشْهُرِ الْحَجِّ ثُمَّ أَقَامَ حَتَّى يَحُجَّ ، أَوْ رَجَعَ إِلَى أَهْلِه ثُمَّ حَجَّ فَلَيْسَ بِمُتَمَتِّعٍ ، وَإِذَا أَهَلَّ بِالْعُمْرَةِ فِي أَشْهُرِ الْحَجِّ ثُمَّ رَجَعَ إِلَى أَهْلِه ، ثُمَّ حَجَّ فَلَيْسَ بِمُتَمَتِّعٍ ، وَإِذَا اعْتَمَرَ فِي أَشْهُرِ الْحَجِّ ثُمَّ أَقَامَ حَتَّى يَحُجَّ فَهُوَ مُتَمَتِّعٌ.

338. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning the man who sets out on the ʿUmrah outside of the months of the Hajj and then takes up residence until he does the Hajj or returns[1033] to his family and then performs the Ḥajj,[1034] that he is not performing *tamattuʿ*.[1035] If he sets out on ʿUmrah during the months of the Hajj and then returns to his family and then does the Hajj, he is not performing *tamattuʿ*. If he performs

ʿUmrah in the months of Hajj and then takes up residence[1036] until he performs the Hajj, he is performing *tamattuʿ*."[1037]

قَالَ مُحَمَّدٌ : وبهذا كلّه نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

٣٣٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي رَجُلٍ من أَهْلِ مَكَّةَ اعْتَمَرَ فِي أَشْهُرِ الْحَجِّ ، ثُمَّ حَجَّ مِن عَامِهِ ذَلِكَ قَالَ : لَيْسَ عَلَيْهِ هَدْيٌ بِمُتْعَتِهِ .

339. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man of the people of Makkah[1038] who performed ʿUmrah in the months of Hajj and then later performed Hajj in that[1039] same year, 'He does not have to sacrifice a *hady* offering for his *tamattuʿ*.'"[1040]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى ، وذَلِكَ لِقَوْلِ اللَّهِ تَعَالَى : ﴿ ذَلِكَ لِمَن لَّمْ يَكُنْ أَهْلُهُ حَاضِرِي الْمَسْجِدِ الْحَرَامِ ﴾ .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him. That is because of the words of Allah, exalted is He, '*That is for anyone whose family does not live near the Masjid al-Ḥarām.*'" (Sūrat al-Baqarah: 195)"

٣٤٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يَقْدَمُ مُتَمَتِّعًا فِي شَهْرِ رَمَضَانَ فَلَا يَطُوفُ حَتَّى يَدْخُلَ شَوَّالٌ قَالَ : هُوَ مُتَمَتِّعٌ لِأَنَّهُ طَافَ فِي أَشْهُرِ الْحَجِّ

340. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who comes as someone performing *tamattuʿ*[1041] in the month of Ramaḍān but does not

perform *ṭawāf* until he enters Shawwāl, ‘He is performing *tamattuʿ* because he performed *ṭawāf* in the months of Hajj.’”[1042]

قَالَ مُحَمَّدٌ: وَبِهِ نَأْخُذُ، عُمْرَتُه فِي الشَّهْرِ الَّذِي يَطُوفُ فِيهِ، وَلَيْسَ فِي الشَّهْرِ الَّذِي يُحْرِمُ فِيهِ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, “We adhere to this. His ʿUmrah is in the month in which he performs the *ṭawāf* and not in the month in which he enters *iḥrām*, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٣٤١ - مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يَفُوتُه صَوْمُ ثَلاثَةِ أَيَّامٍ فِي الْحَجِّ قَالَ: عَلَيْهِ الْهَدْيُ، لا بُدَّ مِنْهُ وَلَوْ أَنْ يَبِيعَ ثَوْبَه.

341. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who misses[1043] fasting three days during the Hajj, ‘He must sacrifice a *hady* offering.[1044] There is no exemption from it even if he has to sell his clothes.’”[1045]

قَالَ مُحَمَّدٌ: وَبِهِ نَأْخُذُ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٣٤٢ - مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ: حَدَّثَنَا يَزِيدُ بْنُ عَبْدِ الرَّحْمنِ عَنْ عَجُوزٍ مِن الْعَتِيكِ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ رَضِيَ اللَّهُ عَنْهَا أَنَّهَا قَالَتْ: لا بَأْسَ بِالْعُمْرَةِ فِي أَيِّ السَّنَةِ شِئْتَ مَا خَلا خَمْسَةَ أَيَّامٍ: يَوْمِ عَرَفَةَ، وَيَوْمِ النَّحْرِ، وَأَيَّامِ التَّشْرِيقِ.

342. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Yazīd ibn ʿAbd ar-Raḥmān narrated to us from an old woman[1046] of al-ʿAtīk that ʿĀ’ishah, the Mother of the Mu’minūn, ﵂ said, “There is no harm in ʿUmrah in any part of the year you wish, except for five

days:[1047] the Day of ʿArafah, the Day of Sacrifice, and the Days of Drying of the Meat (*tashrīq*).”’”[1048]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى إِلاَّ أَنَّا نَقُولُ : عَشِيَّةَ عَرَفَةَ ، فَأَمَّا غَدَاةُ عَرَفَةَ فَلَا بَأْسَ بِالْعُمْرَةِ فِيهَا .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him, except that we say, ‘The afternoon[1049] of ʿArafah’; as for the morning[1050] of ʿArafah there is no harm in ʿUmrah then.”

بَابُ الصَّلٰوةِ بِعَرَفَةَ وَجَمْعٍ

100. PRAYER AT ʿARAFAH AND MUZDALIFAH (*JAMʿ*)

٣٤٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا صَلَّيْتَ يَوْمَ عَرَفَةَ فِي رَحْلِكَ فَصَلِّ كُلَّ وَاحِدٍ مِنَ الصَّلَاتَيْنِ لِوَقْتِهَا ، وَلَا تَرْتَحِلْ مِنْ مَنْزِلِكَ حَتَّى تَفْرُغَ مِنَ الصَّلٰوةِ .

343. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If you pray on the day of ʿArafah in your shelter[1051] then pray each one of the two prayers[1052] at their time, and do not depart from your lodging until you have prayed the prayer.’”[1053] [1054]

قَالَ مُحَمَّدٌ : وَبِهَذَا كَانَ يَأْخُذُ أَبُو حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى ، فَأَمَّا فِي قَوْلِنَا فإنه يُصَلِّيهَا فِي رَحْلِهِ كَمَا يُصَلِّيهَا مَعَ الْإِمَامِ ، يَجْمَعُهُمَا جَمِيعًا بِأَذَانٍ وَإِقَامَتَيْنِ لِأَنَّ الْعَصْرَ إِنَّمَا قُدِّمَتْ لِلْوُقُوفِ ، وَكَذَلِكَ بَلَغَنَا عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ ، وَ عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ (رَضِيَ اللَّهُ عَنْهُمَا) ، وَعَنْ عَطَاءِ بْنِ أَبِي رَبَاحٍ ، وَعَنْ مُجَاهِدٍ (رَحِمَهُمَا اللَّهُ) .

Muḥammad said, “Abū Ḥanīfah, may Allah, exalted is He, have mercy on him, used to adhere to this,[1055] but our verdict is that he should pray them in his shelter as he prays them with the imam, joining them together with one *adhān* and two *iqāmahs*, because *ʿAṣr* is only brought forward to facilitate the standing.[1056] Thus it has reached us from ʿĀ’ishah, the Mother of the Mu’minūn, and from ʿAbdullāh ibn ʿUmar ﵄ and from ʿAṭā’ ibn Abī Rabāḥ and Mujāhid (may Allah have mercy on them both).”

٣٤٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الصَّلَوةِ بِجَمْعٍ قَالَ : إِذَا صَلَّيْتَهُمَا بِجَمْعٍ صَلَّيْتَهُمَا بِإِقَامَةٍ وَاحِدَةٍ ، وَإِنْ تَطَوَّعْتَ بَيْنَهُمَا فَاجْعَلْ لِكُلِّ وَاحِدَةٍ إِقَامَةً .

344. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning prayer at Muzdalifah (*Jam*ʿ), ‘When you pray them[1057] at Muzdalifah, pray them with a single *iqāmah,*[1058] but if you pray voluntary prayers in between them, say the *iqāmah* for each one.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى ، وَلَا يُعْجِبُنَا أَنْ يَتَطَوَّعَ بَيْنَهُمَا .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him, but it does not please us[1059] that someone do voluntary prayers in between them.”

٣٤٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّهُ لَمْ يَكُنْ يَخْرُجُ يَوْمَ عَرَفَةَ مِن منزله ، وقَالَ أبوحَنِيفَةَ : التَّعْرِيفُ الَّذِي يَصْنَعُهُ النَّاسُ يَوْمَ عَرَفَةَ مُحْدَثٌ ، إِنَّمَا التَّعْرِيفُ بِعَرَفَاتِ .

345. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm did not use to leave his home [in Kufa] on the Day of ʿArafah. Abū Ḥanīfah said, 'This going forth to the desert and praying there [*taʿrīf*] which people do on the Day of ʿArafah is an innovation. Going forth to the desert and praying there [*taʿrīf*] is only to be done at ʿArafāt.'"

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ .

Muḥammad said, "We adhere to this."

◆

بَابُ مَنْ وَاقَعَ أَهْلَهُ وَهُوَ مُحْرِمٌ

101. SOMEONE WHO HAS SEXUAL INTERCOURSE WITH HIS WIFE WHILE IN *IḤRĀM*

٣٤٦– مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ عَبْدِ الْعَزِيزِ بْنِ رُفَيْعٍ عَنْ مُجَاهِدٍ عَنِ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا : أَنَّ رَجُلاً أَتَاهُ فَقَالَ: إِنِّي قَبَّلْتُ امْرَأَتِي وَأَنَا مُحْرِمٌ، فَحَذَفْتُ بِشَهْوَتِي ، فَقَالَ: إِنَّكَ شَبِقٌ . أَهْرِقْ دَمًا ، وَتَمَّ حَجُّكَ .

346. Muḥammad said, "Abū Ḥanīfah informed us from ʿAbd al-ʿAzīz ibn Rāfiʿ from Mujāhid from Ibn ʿAbbās ﵄ that a man came to him and said, 'I kissed my wife while in *iḥrām*, but I limited my appetite to that,' so he said, 'You are affected by violent sexual desire. You must spill blood [by sacrificing][1060] and your Hajj is complete.'"

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَلَا يَفْسُدُ الْحَجُّ حَتَّى يَلْتَقِيَ الْخِتَانَانِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى ، وكَذلِكَ بَلَغَنَا عَنْ عَطاءِ بْنِ أَبِي رَبَاحٍ.

Muḥammad said, “We adhere to this. The Hajj isn’t invalidated until the two circumcised parts meet, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him, and the like has reached us from ʿAṭā’ ibn Abī Rabāḥ.”

٣٤٧- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ عَطَاءِ بْنِ أَبِي رَبَاحٍ عَنِ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا قَالَ : إِذَا جَامَعَ بَعْدَ مَا يُفِيضُ من عَرَفَاتٍ فَعَلَيْهِ بَدَنَةٌ ، وَيَقْضِي مَا بَقِيَ من حَجِّهِ ، وَتَمَّ حَجُّهُ.

347. Muḥammad said, “Abū Ḥanīfah informed us from ʿAṭā’ ibn Abī Rabāḥ that Ibn ʿAbbās said, ‘If someone has sexual intercourse after pressing on[1061] from ʿArafah, he must sacrifice a she-camel,[1062] perform what remains of his Hajj and his Hajj is complete.’”[1063]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٣٤٨- مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ سَعِيدِ بْنِ جُبَيْرٍ عَنِ ابْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا قَالَ: إِذَا جَامَعَ بَعْدَ مَا يُفِيضُ مِن عَرَفَاتٍ فَعَلَيْهِ دَمٌ، وَيَقْضِي مَا بَقِيَ مِن حَجِّهِ، وَعَلَيْهِ الْحَجُّ من قَابِلٍ.

348. Muḥammad said, “Abū Ḥanīfah informed us from Saʿīd ibn Jubayr that Ibn ʿUmar said, ‘If he has sexual intercourse after pressing on from ʿArafāt he must spill blood [in sacrifice], perform what remains of his Hajj, and the subsequent Hajj is obligatory on him.’”

قَالَ مُحَمَّدٌ : وَلَسْنَا نَأْخُذُ بِهَذَا الْقَوْلِ، وَالْقَوْلُ مَا قَالَ فِيهِ ابْنُ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا .

Muḥammad said, “We do not adhere to this verdict; the right verdict is that which Ibn ʿAbbās gave.”

٣٤٩- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ: مَنْ قَبَّلَ وَهُوَ مُحْرِمٌ فَعَلَيْهِ دَمٌ.

349. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Whoever kisses while in *iḥrām* must spill blood [in sacrifice].’”[1064]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ إِذَا قَبَّلَ بِشَهْوَةٍ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this, if he kisses with sexual passion, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ مَنْ نَحَرَ فَقَدْ حَلَّ

102. WHOEVER SACRIFICES HAS BECOME FREE OF *IḤRĀM*

٣٥٠- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ فِي الْمُتَمَتِّعِ : إِذَا نَحَرَ الْهَدْيَ يَوْمَ النَّحْرِ فَقَدْ حَلَّ.

350. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād concerning *tamattuʿ*, ‘Whoever sacrifices the *hady* offering on the Day of Sacrifice has left *iḥrām.*’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ إِذَا حَلَقَ إِلَّا أَنَّهُ لَمْ يَحِلَّ لَهُ النِّسَاءُ خَاصَّةً حَتَّى يَزُورَ الْبَيْتَ ، فَيَطُوفَ طَوَافَ الزِّيَارَةِ ، وَأَمَّا غَيْرُ النِّسَاءِ وَالطِّيبِ فَقَدْ حَلَّ ذَلِكَ لَهُ إِذَا حَلَقَ رَأْسَهُ قَبْلَ أَنْ يَطُوفَ الْبَيْتَ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this when he shaves[1065] [his head or trims his hair] except that women in particular do not become permissible to him [in intercourse] until he visits the House and performs the *ṭawāf* of Visiting. As for things other than women and perfume,[1066] that is permissible to him if he shaves his head before performing *ṭawāf* of the House, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

◆

بَابُ مَنِ احْتَجَمَ وَهُوَ مُحْرِمٌ وَالْحَلْقِ

103. SOMEONE WHO IS CUPPED WHILE IN *IḤRĀM* AND SHAVING THE HEAD

٣٥١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا أَبُو السَّوَّارِ عَنْ أَبِي حَاضِرٍ : أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ احْتَجَمَ وَهُوَ صَائِمٌ مُحْرِمٌ .

351. Muḥammad said, "Abū Ḥanīfah informed us saying, 'Abū's-Sawwār narrated to us from Abū Ḥāḍir that the Messenger of Allah ﷺ was cupped while he was fasting in *iḥrām*.'"[1067]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَلَكِنْ لَا يَنْبَغِي لِلْمُحْرِمِ أَنْ يَحْلِقَ شَعْرًا إِذَا احْتَجَمَ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this, but the person in *iḥrām* ought not to have any hair shaven when he is cupped, and that is the

verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٣٥٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : مَنْ أَخَذَ الرَّأْسَ
مِن النِّسَاءِ فَهُوَ أَفْضَلُ ، وَالْحَلْقُ لِلرِّجَالِ أَفْضَلُ يَعْنِي فِي الإِحْرَامِ.

352. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Whoever trims[1068] [the hair of] the head of women, that is better, but shaving is better for men,’ meaning in *iḥrām*.”

قَالَ مُحَمَّدٌ : وَبِه نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى ، وَمَا أُحِبُّ لِلْمَرْأَةِ أَنْ
تَأْخُذَ أَقَلَّ مِن الأَنْمُلَةِ مِن جَوَانِبِ رَأْسِهَا .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him, but it is preferable that a woman does not trim less than the top finger joint from the sides of her head.”

◆

بَابُ مَنِ احْتَاجَ مِن عِلَّةٍ فَهُوَ مُحْرِمٌ

104. WHOEVER BECOMES IN NEED BECAUSE OF SOME ILLNESS WHILE IN *IḤRĀM*

٣٥٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ فِي الشِّقَاقِ إِذَا
أَحْرَمْتَ ، قَالَ : ادَّهِنْهُ بِالسَّمْنِ وَالْوَدْكِ . وَقَالَ سَعِيدُ بْنُ جُبَيْرٍ بِكُلِّ شَيْءٍ تَأْكُلُه .

353. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning cracking of the skin[1069] when a woman is in *iḥrām*, ‘Oil it with clarified butter and fat.’ Saʿīd ibn Jubayr said, ‘With anything that you eat.’”[1070]

قَالَ مُحَمَّدٌ : وَبِقَوْلِ سَعِيدٍ نَأْخُذُ مَا لَمْ يَكُنْ فِيهِ طِيبٌ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to the verdict of Saʿīd as long as there is no scent in it, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٣٥٤- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ قَالَ : قُلْتُ لِإِبْرَاهِيمَ : يَغْتَسِلُ الْمُحْرِمُ؟ قَالَ : مَا يَصْنَعُ اللَّهُ بِدَرَنِه شَيْئًا .

354. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us saying, “I asked Ibrāhīm, ‘Can the person in *iḥrām* bathe?’ He answered, ‘Allah will not do anything with his dirt.’”’”[1071]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، لَا نَرَى بَأْساً ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ .

Muḥammad said, “We adhere to this and see no harm in it, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٣٥٥- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي ظُفْرِ الْمُحْرِمِ يَنْكَسِرُ قَالَ : يَكْسِرُه . قَالَ سَعِيدُ بْنُ جُبَيْرٍ : يَقْطَعُه .

355. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning the nail of a person in *iḥrām* which breaks, ‘He should break it.’ Saʿīd ibn Jubayr said, ‘He should cut it off.’”

قَالَ مُحَمَّدٌ : وَكُلُّ ذَلِكَ حَسَنٌ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “All of that is good, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٣٥٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : يَسْتَاكُ الْمُحْرِمُ من الرِّجَالِ وَالنِّسَاءِ .

356. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Both men and women in *iḥrām* use the tooth stick.’”[1072]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ الصَّيْدِ فِي الإِحْرَامِ

105. HUNTING IN *IḤRĀM*

٣٥٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا أَهْلَلْتَ بِهِمَا

357. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If you embark upon both of them together, ʿUmrah and Hajj, and then you catch game, you have to pay two requitals, but if you embark upon ʿUmrah alone, you owe a single requital and if you embark upon Hajj alone, you owe a single requital.’”[1073] [1074]

جَمِيعًا الْعُمْرَةِ وَالْحَجِّ ، فَأَصَبْتَ صَيْدًا فَإِنَّ عَلَيْكَ جَزَاءَيْنِ ، فَإِنْ أَهْلَلْتَ بِعُمْرَةٍ كَانَ عَلَيْكَ جَزَاءٌ ، فَإِنْ أَهْلَلْتَ بِالْحَجِّ كَانَ عَلَيْكَ جَزَاءٌ .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

358. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Muḥammad ibn al-Munkadir narrated to us that Abū Qatādah ﵁ said, “I set out in a body[1075] of the Companions of the Messenger of Allah ﷺ and every single one of them was in *iḥrām* apart from me. I saw a herd of wild asses and so I sprang to my horse and mounted it. I had been too hasty, leaving behind my horsewhip, so I said to them, ‘Pass it up to me,’[1076] but they refused[1077] and so I dismounted and got my horsewhip, remounted and went in search of the herd of wild asses, and caught one of them. I ate and they ate with me.”’”

٣٥٩- مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ: حَدَّثَنَا أبو سَلَمَةَ عَنْ رَجُلٍ عَنْ أَبِي هُرَيْرَةَ
رَضِيَ اللَّهُ عَنْهُ قَالَ: مَرَرْتُ فِي الْبَحْرَيْنِ، فَسَأَلُونِي عَنْ لَحْمِ الصَّيْدِ يَصِيدُهُ الْحَلَالُ، هَلْ
يَصْلُحُ لِلْمُحْرِمِ أَنْ يَأْكُلَهُ؟ فَأَفْتَيْتُهُمْ بِأَكْلِهِ وَفِي نَفْسِي مِنْهُ شَيْءٌ، ثُمَّ قَدِمْتُ عَلَى عُمَرَ بْنِ
الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ، فَذَكَرْتُ لَهُ مَا قُلْتُ لَهُمْ فَقَالَ: لَوْ قُلْتَ غَيْرَ هَذَا، مَاأَفْتَيْتَ
بَيْنَ اثْنَيْنِ مَا بَقِيتَ.

359. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Abū Salamah narrated to us from a man that Abū Hurayrah ﵁ said, “I passed through Baḥrayn and they asked me whether the meat of game animals caught by someone not in *iḥrām* is permissible for someone in *iḥrām* to eat, and I gave them the *fatwā* to eat it, but there remained something [of doubt] in my self. Then I went to see ʿUmar ibn al-Khaṭṭāb ﵁ and mentioned what I had said to them, and he said, ‘Had you said anything else to them, you would not have given *fatwā* between any two people as long as you remained alive.’”’”[1078] [1079]

٣٦٠- مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ: حَدَّثَنَا هِشَامُ بْنُ عُرْوَةَ عَنْ أَبِيهِ عَنْ جَدِّهِ
الزُّبَيْرِ بْنِ الْعَوَامِ رَضِيَ اللَّهُ عَنْهُ قَالَ: كُنَّا نَحْمِلُ لَحْمَ الصَّيْدِ صَفِيفًا، وَنَتَزَوَّدُ، وَنَأْكُلُه
وَنَحْنُ مُحْرِمُونَ مَعَ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ.

360. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Hishām ibn ʿUrwah narrated to us from his father that his grandfather az-Zubayr ibn al-ʿAwwām ﵁ said, “We used to carry dried strips[1080] of game meat which we would take as travelling provision[1081] and eat from while in *iḥrām* along with the Messenger of Allah ﷺ.”’”[1082]

٣٦١– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ مُحَمَّدِ بْنِ الْمُنْكَدِرِ عَنْ عُثْمَانَ بْنِ مُحَمَّدٍ عَنْ طَلْحَةَ بْنِ عُبَيْدِ اللهِ رَضِيَ اللَّهُ عَنْهُ قَالَ: تَذَاكَرْنَا لَحْمَ الصَّيْدِ ، يَأْكُلُهُ الْمُحْرِمُ وَالنَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ نَائِمٌ، فَارْتَفَعَتْ أَصْوَاتُنَا ، فَاسْتَيْقَظَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ: فِيمَ تَنَازَعُونَ؟ فَقُلْنَا : فِي لَحْمِ الصَّيْدِ يَأْكُلُهُ الْمُحْرِمُ، فَأَمَرَنَا بِأَكْلِهِ.

361. Muḥammad said, “Abū Ḥanīfah informed us from Muḥammad ibn al-Munkadir from ʿUthmān ibn Muḥammad that Ṭalḥah ibn ʿUbaydullāh ﵁ said, ‘While the Prophet ﷺ was asleep we were discussing game meat which the person in *iḥrām* eats, and our voices became louder. So the Prophet ﷺ awoke and asked, “What are you arguing about?” We said, “Game meat that a person in *iḥrām* eats,” and he told us to eat it.’”[1083]

قَالَ مُحَمَّدٌ : وبِهَذَا نَأْخُذُ ، إِذَا ذَبَحَ الْحَلَالُ الصَّيْدَ فَلَا بَأْسَ بِأَنْ يَأْكُلَهُ الْمُحْرِمُ، وَإِنْ كَانَ ذَبَحَه من أَجْلِه، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, “We adhere to this. If a person who is not in *iḥrām* slaughters the game, there is no harm for the person in *iḥrām* eating it even if the slaughter was for his [the former’s] sake, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

قَالَ مُحَمَّدٌ : وَأَرَاهُمْ فِي هَذَا الْحَدِيثِ قَدْ تَنَازَعُوا فِي الْفِقْهِ، فَارْتَفَعَتْ أَصْوَاتُهُمْ، فَاسْتَيْقَظَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لِذلك ، فَلَمْ يَعِبْهُ عَلَيْهِمْ.

Muḥammad said, “I think that in this hadith they were quarrelling about the *fiqh* and so their voices rose, and then the Prophet ﷺ awoke because of that, but he did not find fault with them about it.”

٣٦٢- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ: إِذَا اشْتَرَكَ الْقَوْمُ الْمُحْرِمُونَ فِي صَيْدٍ فَعَلَى كُلِّ وَاحِدٍ مِنْهُمْ جَزَاؤُهُ.

362. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If people who are in *iḥrām* share in hunting game, each one of them owes its requital.’”[1084]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى، أَلا تَرَى أَنَّ الْقَوْمَ يَقْتُلُونَ الرَّجُلَ جَمِيعًا خَطَأً فَعَلَى كُلِّ وَاحِدٍ كَفَّارَةُ عِتْقِ رَقَبَةٍ مُؤْمِنَةٍ، فَإِنْ لَمْ يَجِدْ فَصِيَامُ شَهْرَيْنِ مُتَتَابِعَيْنِ ؟

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him. Do you not see that if people unpremeditatedly kill a man, doing it together, then each one owes the expiation of freeing a believing slave, and if they do not find that, then [they owe] to fast two consecutive months?”

٣٦٣- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ: حَدَّثَنَا الْهَيْثَمُ بْنُ أَبِي الْهَيْثَمِ عَنِ الصَّلْتِ بْنِ حُنَيْنٍ عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا قَالَ: أُهْدِيَ لَهُ ظَبْيَانِ وَبِيضُ نَعَامٍ فِي الْحَرَمِ، فَأَبَى أَنْ يَقْبَلَهُ وَقَالَ : هَلا ذَبَحْتَهُمَا قَبْلَ أَنْ تَجِيءَ بِهِمَا؟

363. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Al-Haytham ibn Abī’l-Haytham narrated to us from aṣ-Ṣalt ibn Ḥunayn that while in *iḥrām* ʿAbdullāh ibn ʿUmar ؓ was presented two gazelles and some ostrich eggs as a gift but he refused to accept them and said, “Why did you not slaughter these two before bringing them to me?”’”[1085]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، إِذَا أُدْخِلَ شَيْءٌ من الصَّيْدِ الْحَرَمِ حَيّاً لَمْ يَحِلَّ ذَبْحُه ، وَلَا بَيْعُه ، وَخُلِّيَ سَبِيلُه ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. If any game is brought alive into the Ḥaram it is not *ḥalāl* to slaughter it nor to sell it and one must let it go. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.””

◆

بَابُ من عَطَبَ هَدْيُه فِي الطَّرِيقِ

106. SOMEONE WHOSE *HADY* OFFERING DIES ON THE JOURNEY

٣٦٤– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا منصُورُ بْنُ الْمُعْتَمِرِ عَنْ إِبْرَاهِيمَ النَّخَعِيِّ عَنْ خَالِدٍ عَنْ عَائِشَةَ أُمِّ الْمُؤْمِنِينَ رَضِيَ اللَّهُ عَنْهَا قَالَ : سَأَلْتُهَا عَنِ الْهَدْيِ إِذَا عَطَبَ فِي الطَّرِيقِ كَيْفَ يَصْنَعُ بِهِ؟ قَالَتْ : أَكْلُه أَحَبُّ إِلَيَّ مِنْ تَرْكِه لِلسِّبَاعِ. وقَالَ أَبُو حَنِيفَةَ : فَإِنْ كَانَ وَاجِبًا فَاصْنَعْ بِه مَا أَحْبَبْتَ ، وَعَلَيْكَ مَكَانَه ، وَإِنْ كَانَ تَطَوُّعاً فَتَصَدَّقْ بِه عَلَى الْفُقَرَاءِ . فَإِنْ كَانَ ذَلِكَ فِي مَكَانٍ لا يُوجَدُ فِيهِ الْفُقَرَاءُ فَانْحَرْهُ ، وَاغْمِسْ نَعْلَه فِي دَمِه ، ثُمَّ اضْرِبْ بِهِ صَفْحَتَه ، ثُمَّ خَلِّ بَيْنَه وَبَيْنَ النَّاسِ يَأْكُلُونَ ، فَإِنْ أَكَلْتَ مِنْهُ شَيْئًا فَعَلَيْكَ مَكَانَ مَا أَكَلْتَ ، وَإِنْ شِئْتَ صَنَعْتَ بِه مَا أَحْبَبْتَ وَعَلَيْكَ مَكَانَه .

364. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Manṣūr ibn al-Muʿtamir narrated to us from Ibrāhīm an-Nakhaʿī from ʿĀ’ishah, the Mother of the Mu’minūn ؓ, “She said, [when] I asked her about what I should do with the *hady* offering which died[1086] on the journey? ‘It is preferable to me to eat it rather than leaving it for beasts of prey.’”” Abū Ḥanīfah said, ‘If it had been an obligatory

[sacrifice], do whatever you like with it, but you have to [sacrifice] in its place. If it was a voluntary [sacrifice], give it as *ṣadaqah* to the needy.[1087] If that is in a place where there are no needy people, then slaughter it, plunge its sandal[1088] in its blood and strike its side with it, and leave it for people to eat. If you eat anything of it, you have to give in its place [as a sacrifice] the equivalent of what you have eaten. If you wish you may do whatever you wish with it, and then [sacrifice another animal] in its place.'"[1089]

قَالَ مُحَمَّدٌ : وبِهذا نَأْخُذُ .

Muḥammad said, "We adhere to this."

◆

بَابُ مَا يَصْلُحُ لِلْمُحْرِمِ من اللِّبَاسِ وَالطِّيبِ

107. WHAT CLOTHING AND SCENT ARE PERMISSIBLE FOR THE PERSON IN *IḤRĀM*

٣٦٥ - مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ خَارِجَةَ بْنِ عَبْدِ اللّٰهِ قَالَ : سَأَلْتُ سَعِيدَ بْنَ الْمُسَيَّبِ عَنِ الْهِمْيَانِ يَلْبَسُهُ الْمُحْرِمُ ؟ فقَالَ : لَا بَأْسَ به .

365. Muḥammad said, "Abū Ḥanīfah informed us that Khārijah ibn ʿAbdullāh said, 'I asked Saʿīd ibn al-Musayyab about the purse[1090] which people in *iḥrām* wear and he said, "There is no harm in it."'"[1091]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللّٰهُ .

Muḥammad said, "We adhere to this, and it is the verdict of Abū Ḥanīfah ﵀."

٣٦٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا عَطَاءُ بْنُ السَّائِبِ عَنْ كَثِيرِ بْنِ جُمْهَانَ قَالَ : بَيْنَمَا عَبْدُ اللَّهِ بْنُ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا فِي الْمَسْعَى وَعَلَيْهِ ثَوْبَانِ بِلَوْنِ الْهَرَوِيِّ ، إِذْ عَرَضَ لَهُ رَجُلٌ فَقَالَ : أَتَلْبَسُ هٰذَيْنِ الْمَصْبُوغَيْنِ وَأَنْتَ مُحْرِمٌ ؟ قَالَ : إِنَّمَا صَبَغْنَا بِمَدَرٍ .

366. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘ʿAṭā’ ibn as-Sā’ib narrated to us that Kathīr ibn Jumhān said, “While ʿAbdullāh ibn ʿUmar ؓ was doing *saʿy* wearing two cloths of *harawī*[1092] yellow a man came up to him and said, ‘Do you wear these pieces of dyed cloth while in *iḥrām*?’ He answered, ‘We only dyed them with odourless red clay.’”’”[1093] [1094]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، لَا نَرَى بِهِ بَأْساً لِأَنَّهُ لَيْسَ بِطِيبٍ وَلَا زَعْفَرَانٍ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. We see no harm in it because it is not scented nor is it saffron hued, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٣٦٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا إِبْرَاهِيمُ بْنُ مُحَمَّدِ بْنِ الْمُنْتَشِرِ عَنْ أَبِيهِ قَالَ : سَأَلْتُ عَبْدَ اللَّهِ بْنَ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا عَنْ طِيبِ الرَّجُلِ وَهُوَ مُحْرِمٌ ، قَالَ : لَأَنْ أُصْبِحَ أَنْتَضِحُ قَطِرَانًا أَحَبُّ إِلَيَّ مِنْ أَنْ أُصْبِحَ أَنْتَضِحُ طِيبًا .

367. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ibrāhīm ibn Muḥammad ibn al-Muntashir narrated to us that his father said, “I asked ʿAbdullāh ibn ʿUmar ؓ about a man’s being scented while in *iḥrām* and he said, ‘I would rather rise in the morning and sprinkle myself with tar[1095] than rise and sprinkle myself with scent.’”’”[1096]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، لا يَنْبَغِي لِلْمُحْرِمِ أَنْ يَتَطَيَّبَ بِشَيْءٍ مِن الطِّيبِ بَعْدَ الإِحْرَامِ .

Muḥammad said, “We adhere to this. The person in *iḥrām* ought not to perfume himself with any scent after entering *iḥrām*.”[1097]

◆

بَابُ مَا يَقْتُلُ الْمُحْرِمُ مِن الدَّوَابِّ

108. WHAT ANIMAL LIFE THE PERSON IN *IḤRĀM* MAY KILL

٣٦٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا نَافِعٌ عَن ابْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا
قَالَ : يَقْتُلُ الْمُحْرِمُ الْفَأْرَةَ، وَالْحَيَّةَ، وَالْكَلْبَ الْعَقُورَ ، وَالْحِدَأَةَ، وَالْعَقْرَبَ .

368. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Nāfiʿ narrated to us that Ibn ʿUmar ﵄ said, “The person in *iḥrām* may kill[1098] rats and mice, snakes, mad dogs,[1099] kites and scorpions.”’”[1100]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى ، وَمَا عَدَا عَلَيْكَ مِن السِّبَاعِ فَقَتَلْتَهُ فَلا شَيْءَ عَلَيْكَ .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him. Any beast of prey which attacks you and which you kill, is not held against you.”

٣٦٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا سَالِمٌ الأَفْطَسُ عَنْ سَعِيدِ بْنِ جُبَيْرٍ
قَالَ : صَحِبْتُ ابْنَ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا فَبَصُرَ بِحِدَأَةٍ عَلَى دُبُرَةِ بَعِيرِهِ ، فَأَخَذَ الْقَوْسَ ،
فَرَمَاهَا وَهُوَ مُحْرِمٌ . قَالَ مُحَمَّدٌ : وبِهذا كُلِّهِ نَأْخُذُ .

369. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Sālim al-Afṭas narrated to us that Saʿīd ibn Jubayr said, “I accompanied Ibn ʿUmar ؓ and he saw a kite behind his camel and took a bow and shot it while in *iḥrām*.”’”[1101]

◆

بَابُ تَزْوِيجِ الْمُحْرِمِ

109. A PERSON IN *IḤRĀM* CONTRACTING A MARRIAGE

٣٧٠- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنِ الْهَيْثَمِ بْنِ أَبِي الْهَيْثَمِ : أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ تَزَوَّجَ مَيْمُونَةَ بِنْتَ الْحَارِثِ رَضِيَ اللَّهُ عَنْهَا بِعُسْفَانَ وَهُوَ مُحْرِمٌ .

370. Muḥammad said, “Abū Ḥanīfah informed us from al-Haytham ibn Abī’l-Haytham that the Messenger of Allah ﷺ married Maymūnah bint al-Ḥārith ؓ at ʿAsfān while he was in *iḥrām*.”[1102] [1103]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، لا نَرَى بِذَلِكَ بَأْساً ، وَلَكِنَّهُ لَا يُقَبِّلُ ، وَلَا يَلْمَسُ ، وَلَايُبَاشِرُ حَتَّى يَحِلَّ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to it, and we see no harm in that. However, one must not kiss, fondle or embrace[1104] until one is finished with *iḥrām*, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ بَيْعِ بُيُوتِ مَكَّةَ وَأَجْرِهَا

110. BUYING HOUSES IN MAKKAH AND RENTING THEM

٣٧١- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ عَبْدِ اللَّهِ بْنِ أَبِي زِيَادٍ عَنِ ابْنِ أَبِي نَجِيحٍ عَنْ عَبْدِ اللَّهِ بْنِ عَمْرٍو رَضِيَ اللَّهُ عَنْهُمَا عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ : من أَكَلَ مِن أُجُورِ بُيُوتِ مَكَّةَ شَيْئًا فَإِنَّمَا يَأْكُلُ نَارًا . وَكَانَ أَبُو حَنِيفَةَ يَكْرَهُ أُجُورَ بُيُوتِهَا فِي الْمَوْسِمِ ، وَفِي الرَّجُلِ يَعْتَمِرُ ثُمَّ يَرْجِعُ ، فَأَمَّا الْمُقِيمُ وَالْمُجَاوِرُ فَلا يَرَى بِأَخْذِ ذَلِكَ مِنْهُمْ بَأْساً .

371. Muḥammad said, "Abū Ḥanīfah informed us from ʿAbdullāh ibn Abī Ziyād from Ibn Abī Najīḥ from ʿAbdullāh ibn ʿAmr ﵄ that the Prophet ﷺ said, 'Whoever eats anything from the rents of the houses of Makkah is simply eating fire.' Abū Ḥanīfah used to deplore its houses being rented out during the Ḥajj[1105] and to someone who performs ʿUmrah and then goes home. As for residents and those who come to stay for purposes of study or *ʿibādah*,[1106] he saw no harm in taking rent from them for that."

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ .

Muḥammad said, "We adhere to that."

٣٧٢- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا عَبْدُ الله بن أَبِي زِيَادٍ عَنِ ابْنِ أَبِي نَجِيحٍ عَنْ عَبْدِ اللَّهِ بْنِ عَمْرٍو رَضِيَ اللَّهُ عَنْهُمَا عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنَّهُ قَالَ : إِنَّ اللَّهَ حَرَّمَ مَكَّةَ ، فَحَرَامٌ بَيْعُ رِبَاعِهَا وَأَكْلُ ثَمَنِهَا .

372. Muḥammad said, "Abū Ḥanīfah informed us saying, 'ʿAbdullāh ibn Abī Ziyād narrated to us from Ibn Abī Najīḥ from ʿAbdullāh ibn ʿAmr ﵄ that the Prophet ﷺ said, "Allah made Makkah a Ḥaram, so sale of its houses (*ribāʿ*)[1107] and consuming the money from that is forbidden."'"[1108]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، لَا يَنْبَغِي أَنْ تُبَاعَ الأَرْضُ، فَأَمَّا الْبِنَاءُ فَلا بَأْسَ بِهِ .

Muḥammad said, “We adhere to this. The land ought not to be sold, but as for [selling] buildings there is no harm in it.”

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[999] Abū Yūsuf narrated it on p.94.

[1000] *iḥrām* is the state in which actions not befitting the Hajj or ʿUmrah become *ḥarām*, and it is also used to denote the male pilgrim’s garments of two pieces of cloth.

[1001] And this is the best, and when he says the *talbiyah* he has entered into *iḥrām*, meaning if he has intended it.

[1002] Indicating that one does not decrease the aforementioned *talbiyah* transmitted from the Prophet ﷺ but that anything increased in it is valid.

[1003] Contrary to the Shāmī (Syrian) corner. The Yemeni corner is ascribed to the Yemen which is thus named because it is the land to the right (*yamīn*) of the Kaʿbah.

[1004] *istalama* means to take hold of the stone with the hand, or kiss it, or wipe it with the palm of the hand, and derives from *salimah*: stones. This act is good according to the outward of the narration and it is narrated of Muḥammad that it is sunnah.

[1005] *sibt* is a hide of oxen tanned with *qaraẓ* (possibly a type of mimosa) from which sandals are made, named thus because its hair had been shaved off (*subita*). It means that he did *wuḍū’* and donned them while his feet were moist.

[1006] One of the two for the *ʿUmrah* and the other for the Hajj, and it is similar with the *saʿy*.

[1007] And this verdict was given by ash-Shāfiʿī ﷺ.

[1008] Abū Yūsuf narrated it on pp.100-101.

[1009] Ash-Shāfiʿī said that *ifrād* is better. The reality of the difference of opinion goes back to the difference of opinion as to whether the Messenger of Allah ﷺ when on his Hajj did the *qirān* or the *ifrād*. The truth is that the narration that says it was *ifrād* is weak. What is meant by *tamattuʿ* in his narrations is *qirān*, because *tamattuʿ* in the first generations was more universal than *qirān* and *tamattuʿ*. The narrations that say it was *qirān* are stronger.

[1010] Abū Yūsuf narrated it on p.99.

[1011] It means that ʿUmar ﷺ forbade the *mutʿah* in which there is going out of *iḥrām* but not coupling Hajj and *ʿUmrah* in a single *iḥrām*, which is supported by what ʿUmar said to

Ṣabī ibn Maᶜbad who had coupled Hajj and *ᶜUmrah*, “You have been guided to the Sunnah of your Prophet ﷺ.” He only forbade *tamattuᶜ* in order to stimulate desire for *ifrād* and then later consensus was reached on the permissibility of doing *tamattuᶜ* without there being any disapproval.

[1012] And in *tamattuᶜ* there is that one does *ᶜUmrah* alone and then one goes out of *iḥrām*. And then goes into *iḥrām* for Hajj after that. There is in the *Āthār* of Abū Yūsuf, “ᶜUmar only forbade *ifrād* meaning the *ifrād* of *tamattuᶜ*, but as for *qirān* he did not forbid it.”

[1013] Abū Yūsuf narrated it on p.99.

[1014] The word for house mentioned here *duwayrah* is the diminutive of *dār*, and the diminutive is mentioned as a contrast to the exaltation of the House of Allah.

[1015] Abū Yūsuf narrated it on p.101.

[1016] That you will not fall into what is forbidden.

[1017] Abū Yūsuf narrated it on p.110.

[1018] Abū Yūsuf narrated it on pp.110-111.

[1019] A people and a tribe.

[1020] A town near to Madīnah.

[1021] Camel hair, wool or hair made into a dwelling.

[1022] [See Sūrat al-Hajj: 25] i.e., far road, which is how the community interpret the expression.

[1023] Worship and obedience and everything by which one draws closer to Allah, exalted is He, and then later all the affairs of the Hajj were called rites.

[1024] Abū Yūsuf narrated it on p.110.

[1025] From the Black Stone to the Black Stone, and it means to walk quickly, along with making the steps close together. Its origin is that the person walking should move his shoulders in walking, and they agree on the fact that it is legislated.

[1026] Abū Yūsuf narrated it on p.120.

[1027] Al-Bukhārī narrated it under “military expeditions (*maghāzī*)” in the chapter on “the *ᶜUmrah* done to make up for one missed,” and Muslim under “Hajj” in the chapter on “it being recommended to walk briskly in *ṭawāf* and on *ᶜUmrah*,” and Abū Dāwūd in the book on “the rites” in the chapter on “walking briskly,” and an-Nasā’ī under “the Hajj” in the chapter on “the reason because of which the Prophet ﷺ went energetically around the House.”

[1028] According to one’s customary stillness and dignity.

[1029] Used by riders to reach down for what they have dropped, and to urge a camel to move by its end.

[1030] Abū Yūsuf narrated it on p.44.

[1031] *Istalama* includes the act of kissing the Stone, or wiping it if one is not able to kiss it, or gesturing towards it in greeting if neither of the above are possible.

[1032] Abū Yūsuf narrated it on p.98.

[1033] After completely the acts of his ʿUmrah.

[1034] That same year.

[1035] See note 1009

[1036] In Makkah and its environs without returning to his family.

[1037] Abū Yūsuf narrated it on p.98.

[1038] Because the people of Makkah have neither *tamattuʿ* or *qirān*, but are only able to do *ifrād* in particular, contrary to the view of ash-Shāfiʿī, because in his view they may do *qirān* and *tamattuʿ* but are not liable to sacrifice.

[1039] Indicating the *tamattuʿ* according to our view, and according to ash-Shāfiʿī indicating the ruling which is that the sacrifice is obligatory.

[1040] Abū Yūsuf narrated the like of it on p.102.

[1041] Because the *iḥrām* according to us is a precondition so that it is valid to bring it forward before the months of the Hajj, but the performance of the actions in it are only reckoned with. It is similar with someone who enters *iḥrām* for ʿUmrah before the months of Hajj and does less than four circuits of *ṭawāf* for it and then the months of Hajj begin and he completes it and enters *iḥrām* for Hajj; he is thus performing *tamattuʿ* since the judgement on the majority is the judgement on it all.

[1042] Abū Yūsuf narrated it on p.102.

[1043] Because of His words, exalted is He, "*Anyone who comes out of iḥrām between ʿUmrah and Hajj should make whatever sacrifice is feasible. For anyone who cannot, there is three days' fast on Hajj and seven on your return...*" Sūrat al-Baqarah: 195) Then if one does not have anything to sacrifice he must fast three days during the Hajj the last of which is the Day of ʿArafah, and if he misses fasting until it is the day of Sacrifice it is only valid for him to sacrifice. Ash-Shāfiʿī said that he must fast after these days.

[1044] Because the fast is a substitute, and if one misses the substitute one has to do that for which it was substituted.

[1045] Abū Yūsuf narrated it in divisions on p.102.

[1046] Muʿādhah al-ʿAdawiyah. Ibn Khusraw narrated it.

[1047] Because these are the days of the Hajj and so are specifically singled out for it.

[1048] Abū Yūsuf narrated it on p.113.

[1049] i.e., the night.

[1050] Before the declination of the sun.

[1051] In your place of alighting and your dwelling.

[1052] *Ẓuhr* and *ʿAṣr*.

[1053] *ʿAṣr*.

[1054] Abū Yūsuf narrated it on p.125.

[1055] He also has that safeguarding the prayer in its time is obligatory according to clear texts, so it is not valid to abandon it except for when *Sharīʿah* is narrated concerning it, which is to join the prayers in the group with the imam, and the imam is a precondition in both prayers together according to him. Zufar said that it is about *ʿAṣr* especially because it is the one being changed out of its time.

[1056] *ʿAṣr* is only brought forward in time because of the need to extend the time of standing, and the individual [praying alone] also needs that.

[1057] *Maghrib* and *ʿIshā'*.

[1058] And the three Imams and Zufar said that it is with an *adhān* and two *iqāmahs* and we have the narration of Jābir ؓ that the Prophet ﷺ joined them together with an *adhān* and a single *iqāmah*.

[1059] It is not recommended according to us. It is better that one not engage in supererogatory prayers in between them nor with anything else because the Prophet ﷺ did not engage in anything in between. If one does do supererogatory prayers between them or become engaged in anything else one should repeat the *iqāmah* for *ʿIshā'*. As for the hadith on the two *iqāmahs*, they are to be interpreted as to mean that some of the Companions of the Prophet ﷺ prayed *Maghrib* and then later made the camels go down and alighted in their camps, as the narration of Usāmah ibn Zayd in al-Bukhārī shows, "and they ate their supper."

[1060] There is no difference in the case whether he ejaculates or not.

[1061] i.e., returning.

[1062] *badanah* [from a root meaning "bulkiness, corpulence," etc.] refers to camels and cows, and it is named *badanah* because of its largeness and fatness.

[1063] "Complete" is not meant literally here because he still has to do the *ṭawāf* of visiting (*ziyārah*), and thus one knows that what is meant is to be complete in terms of judgement.

[1064] Abū Yūsuf narrated it on p.115.

[1065] Because shaving is one of the causes of leaving *iḥrām* as is sacrifice.

[1066] Perhaps "perfume" is extra.

[1067] Al-Bukhārī narrated it as a *marfūʿ* hadith under "fasting" in the chapter on "cupping and vomiting for the fasting person," and Abū Dāwūd under "fasting" in the chapter on "the concession granted for that," and at-Tirmidhī under "fasting" in the chapter "what has been narrated concerning the concession granted for that."

[1068] Shortening is that one takes from the extremities of the hair to the measure of a fingertip, and nothing is permitted women except to shorten their hair.

[1069] Cracking of the skin is one of the disorders such as coughing and head colds.

[1070] Abū Yūsuf narrated it on p.123.

[1071] Abū Yūsuf narrated the like of it on p.122.

[1072] Abū Yūsuf narrated it on p.121 at greater length.

[1073] Allah, exalted is He, says: "*You who have īmān! do not kill game while you are in iḥrām. If one of you kills any deliberately, the reprisal for it is a livestock animal equivalent to what he killed, as judged by two just men among you, a sacrifice to reach the Kaʿbah, or expiation by feeding the poor, or fasting commensurate with that, so that he may taste the evil consequences of what he did.*" (Sūrat al-Mā'idah: 95) [1074] Abū Yūsuf narrated it on p.108, and al-Bukhārī under "jihad" in the chapter on "what is said concerning spears," and Muslim under the"Hajj" in the chapter on "the prohibition of those in *iḥrām* hunting game," and Abū Dāwūd under "rites" in the chapter on "the meat of game for the person in *iḥrām*," and at-Tirmidhī under "Hajj" in the chapter on "what is narrated about a person in *iḥrām* eating game."

[1075] *rahṭ* is a group less than ten.

[1076] i.e., give it to me. This hadith shows the permissibility of the person in *iḥrām* eating game if someone not in *iḥrām* hunts it, whether or not that person hunts it for the person in *iḥrām* or for someone else, not as ash-Shāfiʿī and others claimed that is not *ḥalāl* for him if it was hunted for him.

[1077] They refused to hand him the whip because they knew that it is not permissible for the person in *iḥrām* to point out the game or help in any way.

[1078] And in another narration it is, "If you had given them another *fatwā*, I would have caused you pain," i.e., if you had given them *fatwā* that it is *ḥarām* or disapproved, I would have disciplined you, and had you beaten and prevented you giving *fatwā* for the rest of your life.

[1079] Abū Yūsuf narrated it on p.106.

[1080] Flesh meat cut into strips and left in the sun to dry, and this is meat that is laid out in strips on stones and then later roasted. It is also said that it is meat that is laid in strips on hot coals for grilling, and it also refers to it being left in the sun until dry.

[1081] i.e., we made it a provision for our journey in the state of *iḥrām*.

[1082] Abū Yūsuf narrated it on p.107.

[1083] i.e., "He permitted us to eat it" with the precondition that the person in *iḥrām* did not show or indicate [the way to hunt the game].

[1084] i.e., a complete requitals [for each person], for the requitals are more numerous according to the number of the offences.

[1085] Abū Yūsuf narrated it on pp.104-5.

[1086] i.e., which perished, and what is meant by it is that it drew close to perishing [and was then sacrificed before dying naturally].

[1087] And he himself and others who are without need should not eat it.

[1088] What is meant by sandal is the garland on its neck because in the main they are pieces of sandal. The point of that is that people should know that it has been sacrificed and so that the needy should eat from it but not those without need.

[1089] Abū Yūsuf narrated it on p.112 in which there is, "From Manṣūr from Ibrāhīm from ʿĀ'ishah that her husband sacrificed a *hady* offering..."

[1090] *himyān:* a purse in which one's spending money is put which is tied around one's middle.

[1091] Abū Yūsuf narrated it on p.96.

[1092] *harawī* is a yellow colour and derives from Herat a city in Khurasan [today in Afghanistan] whose cloths were of a yellow colour.

[1093] *madar* is a red clay without any scent such as violet, jasmine, basil and rose.

[1094] Abū Yūsuf narrated it on p.97.

[1095] *qaṭīrān* is the resin of the juniper, indicating His words, exalted is He, "*wearing shirts of qaṭirān*" (Sūrah Ibrāhīm: 52). [It may also mean tar or liquid pitch. – Trans.]

[1096] Abū Yūsuf narrated it on p.97.

[1097] As for putting on scent before entering *iḥrām*, the dominant majority take the position that it is recommended when one intends *iḥrām*, and that its colour and scent enduring does no harm, and it is only prohibited for the person in *iḥrām* to initiate it. Mālik said that it is not permissible to put on a perfume whose scent lingers afterwards.

[1098] No wrong action will be recorded for the person in *iḥrām* for killing the above mentioned, and the dominant majority take the position that the ruling is universal with respect to everything that causes harm.

[1099] A mad dog which bites. [*Al-kalb al-ʿaqūr*, literally, “the wounding dog,” but has been applied to any animal of prey such as lions, leopards, lynxes and wolves. – Trans.]

[1100] Abū Yūsuf narrated it on p.108.

[1101] Abū Yūsuf narrated it on pp.108-9.

[1102] Our people argue by reason of this hadith saying that there is no harm in a person in *iḥrām* contracting a marriage, but he may not consummate it until he has come out of *iḥrām*. Mālik, ash-Shāfiʿī and Aḥmad said that it is not permissible for a person in *iḥrām* to get married himself or to marry off someone else, and that if he does that the marriage is invalid.

[1103] Al-Bukhārī narrated it under “marriage” in the chapter on “marriage of someone in *iḥrām*,” and Muslim under “marriage,” in the chapter on “prohibition of a person in *iḥrām* marrying or proposing,” and at-Tirmidhī under “Hajj” in the chapter on “what is narrated granting concession concerning that,” and Ibn Mājah under “marriage” in the chapter on “a person in *iḥrām* marrying.”

[1104] Because kissing, touching and the likes of that are causes of sexual intercourse which along with its cause is forbidden to the person in *iḥrām*.

[1105] The festival of the Hajj, meaning that Abū Ḥanīfah used to disapprove of taking rents for the houses of Makkah from those who come to the Hajj and ʿUmrah. As for those who live in it or close to it, it is not disapproved to take rents for its houses from them.

[1106] *mujāwir* is defined thus by Lane drawing on *Tāj al-ʿArūs*. – Trans.

[1107] *ribāʿ* is the plural of *rabʿ* which means a dwelling, house or home. Al-Jawharī said, “*Ribiʿ* is a house itself wherever it is.” Abū Ḥanīfah and Muḥammad said, “It is not permissible to sell the land of Makkah nor to rent it out.” Abū Yūsuf, ash-Shāfiʿī and Aḥmad said that there is no harm in selling its land or in renting it out, and they regarded it in that respect as being the same as all other lands, and today *fatwā* is given on that basis.

[1108] Abū Yūsuf narrated it on p.117.

IMĀN

بَابُ الإِيْمَانِ

111. ĪMĀN

٣٧٣- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا عَبْدُ اللَّهِ بْنُ أَبِي حَبِيبَةَ قَالَ : سَمِعْتُ أَبَا الدَّرْدَاءِ رَضِيَ اللَّهُ عَنْهُ صَاحِبَ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ : بَيْنَا أَنَا رَدِيفُ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ : يَا أَبَا الدَّرْدَاءِ ! مَنْ شَهِدَ أَنْ لا إِلَهَ إِلَّا اللَّهُ وَأَنِّي رَسُولُ اللَّهِ وَجَبَتْ لَهُ الْجَنَّةُ ، قَالَ : قُلْتُ لَهُ : وَإِنْ زَنَى وَإِنْ سَرَقَ؟ فَسَكَتَ عَنِّي ، ثُمَّ سَارَ سَاعَةً ، ثُمَّ قَالَ : مَنْ شَهِدَ أَنْ لا إِلَهَ إِلَّا اللَّهُ وَ أَنِّي رَسُولُ اللَّهِ وَجَبَتْ لَهُ الْجَنَّةُ ، قُلْتُ : وَإِنْ زَنَى وَإِنْ سَرَقَ؟ قَالَ : وَإِنْ زَنَى وَإِنْ سَرَقَ ، وَإِنْ رَغِمَ أَنْفُ أَبِي الدَّرْدَاءِ . قَالَ : فَكَأَنِّي أَنْظُرُ إِلَى إِصْبَعِ أَبِي الدَّرْدَاءِ السَّبَّابَةِ يُومِي بِهَا إِلَى أَرْنَبَتِهِ .

373. Muḥammad said, "Abū Ḥanīfah informed us saying, ''Abdullāh ibn Abī Ḥabībah narrated to us saying, "I heard Abū'd-Dardā' ﵁ the Companion of the Messenger of Allah ﷺ saying, 'While I was riding behind the Messenger of Allah ﷺ he said, "Abū'd-Dardā', whoever witnesses that there is no god but Allah and that I am the Messenger of Allah must necessarily have the Garden."'[1109] He said, 'I said to him, "Even if he commits adultery and steals?"[1110] He was silent[1111] towards me, and he travelled for a time and then said, "Whoever witnesses that there is no god but Allah and that I am the Messenger of Allah[1112] must necessarily[1113] have the Garden." I said, "Even if

he commits adultery and steals?” He said, “Even if he commits adultery and steals and even if it puts the nose of Abū’d-Dardā’ out of joint.”””[1114] He [ʿAbdullāh ibn Abī Ḥabībah] said, “It is as if I am looking at the index finger of Abū’d-Dardā’ with which he indicated the tip of his nose.”””[1115]

٣٧٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ: حَدَّثَنَا عَبْدُ الْكَرِيمِ بْنُ أَبِي الْمُخَارِقِ عَنْ
طَاوُسٍ قَالَ: جَاءَ رَجُلٌ إِلَى ابْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا فَقَالَ: يَا أَبَا عَبْدِ الرَّحْمَنِ!
أَرَأَيْتَ هٰؤُلَاءِ الَّذِينَ يَسْرِقُونَ أَغْلَاقَنَا ، وَيَفْتَحُونَ أَبْوَابَنَا ، أَكُفَّارٌ هُمْ؟ قَالَ: لَا ، قَالَ:
أَرَأَيْتَ هٰؤُلَاءِ الَّذِينَ يَتَأَوَّلُونَ مِن الْقُرْآنِ، وَيَشْهَدُونَ عَلَيْنَا بِالْكُفْرِ، وَيَسْتَحِلُّونَ دِمَاءَنَا ،
أَكُفَّارٌ هُمْ ؟ قَالَ : لَا ، حَتَّى يَجْعَلُوا مَعَ اللَّهِ شَرِيكًا مَثْنَى مَثْنَى. قَالَ طَاوُسٌ: كَأَنِّي
أَنْظُرُ إِلَى إِصْبَعِ ابْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا وَهُوَ يُحَرِّكُهَا .

374. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘ʿAbd al-Karīm ibn Abī’l-Mukhāriq narrated to us that Ṭāwus said, “A man came to Ibn ʿUmar ﵄ and asked, ‘Abū ʿAbd ar-Raḥmān,[1116] what is your view of these people who steal our padlocks and open our doors, are they *kuffār*?’ He said, ‘No.’[1117] He asked, ‘What is your view of these people who make interpretations of the Qur’ān[1118] and bear witness that we are *kuffār*, and consider it legal to spill our blood, are they *kuffār*?’ He said, ‘No[1119] (so how [can they be *kuffār*] when he said no) not until they couple a partner with Allah.’” Ṭāwus said, “It is as if I am looking at Ibn ʿUmar’s ﵄ finger while he was moving it.”””

٣٧٥- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا عَلْقَمَةُ بْنِ مَرْثَدٍ عَنِ ابْنِ بُرَيْدَةَ
الأَسْلَمِيِّ عَنْ أَبِيهِ رَضِيَ اللَّهُ عَنْهُ قَالَ : كُنَّا جُلُوسًا عِنْدَ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ
وَسَلَّمَ فَقَالَ: اِذْهَبُوا بِنَا نَعُودُ جَارَنَا هَذَا الْيَهُودِيَّ، قَالَ : فَأَتَيْنَاهُ، فَقَالَ : كَيفَ أَنْتَ ؟
وَكَيفَ ؟ فَسَأَلَه ثُمَّ قَالَ: يَا فُلانُ! اِشْهَدْ أَنْ لَا إِلَهَ إِلاَّ اللَّهُ ، وَ أَنِّي رَسُولُ اللَّهِ، فَنَظَرَ
الرَّجُلُ إِلَى أَبِيهِ؛ وَكَانَ عِنْدَ رَأْسِهِ، فَلَمْ يَرُدَّه عَلَيْهِ شَيْئًا ، فَسَكَتَ، فَقَالَ: يَا فُلانُ!
اِشْهَدْ أَنْ لا إِلَهَ إِلاَّ اللَّهُ ، وَأَنِّي رَسُولُ اللَّهِ ، فَنَظَرَ الرَّجُلُ إِلَى أَبِيهِ فَلَمْ يُكَلِّمْهُ، فَسَكَتَ،
ثُمَّ قَالَ: يَا فُلانُ! اِشْهَدْ أَنْ لا إِلَهَ إِلاَّ اللَّهُ، وَ أَنِّي رَسُولُ اللَّهِ، فَقَالَ لَهُ أَبُوهُ: اشْهَدْ لَهُ،
فَقَالَ : أَشْهَدُ أَنْ لَا إِلَهَ إِلاَّ اللَّهُ ، وَأَنَّكَ رَسُولُ اللَّهِ، فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ
وَسَلَّمَ : الْحَمْدُلِلَّهِ الَّذِي أَعْتَقَ بِي نَسَمَةً من النَّارِ .

375. Muḥammad said, "Abū Ḥanīfah informed us saying, "ʿAlqamah ibn Marthad narrated to us from Ibn Buraydah al-Aslamī that his father[1120] ﷺ said, "We were seated with the Messenger of Allah ﷺ and he said, 'Let us go and visit[1121] this Jewish neighbour of ours.'" He said, "So we went to him[1122] and said, 'How are you? and how...?' He questioned him[1123] and then said, 'So-and-so, witness[1124] that there is no god but Allah and that I am the Messenger of Allah.' The man looked at his father[1125] who would not say anything to him[1126] and so he was silent. Then he said, 'So-and-so, witness that there is no god but Allah and that I am the Messenger of Allah.' His father said to him, 'Bear witness to it,'[1127] so he said, 'I witness that there is no god but Allah and that you are the Messenger of Allah.' The Messenger of Allah ﷺ said,[1128] 'Praise belongs to Allah Who by means of me has freed a soul[1129] from the Fire.'""""[1130]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، لَا نَرَى بِعِيَادَةِ الْيَهُودِيِّ وَالنَّصْرَانِيِّ وَالْمَجُوسِيِّ بَأْساً .

Muḥammad said, “We adhere to this. We see no harm in visiting the sick of the Jews, Christians and Zoroastrians.”

٣٧٦- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا قَيْسُ بْنُ مُسْلِمٍ الْجَدَلِيِّ عَنْ طَارِقِ بْنِ شِهَابِ الْأَحْمَسِيِّ قَالَ: جَاءَ يَهُودِيٌّ إِلَى عُمَرَ بْنِ الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ فَقَالَ: أَرَأَيْتَ قَوْلَهُ ﴿سَارِعُوا إِلَى مَغْفِرَةٍ مِّنْ رَبِّكُمْ وَجَنَّةٍ عَرْضُهَا السَّمٰوَاتُ وَالْأَرْضُ﴾ فَأَيْنَ النَّارُ؟ قَالَ عُمَرُ رَضِيَ اللَّهُ عَنْهُ لِأَصْحَابِ مُحَمَّدٍ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: أَجِيبُوهُ ، فَلَمْ يَكُنْ عِنْدَهُمْ فِيهَا شَيْءٌ ، فَقَالَ عُمَرُ رَضِيَ اللَّهُ عَنْهُ : أَرَأَيْتَ النَّهَارَ إِذَا جَاءَ أَلَيْسَ يَمْلَأُ السَّمَاوَاتِ وَالْأَرْضَ ؟ قَالَ: بَلَى، قَالَ: فَأَيْنَ اللَّيْلُ؟ قَالَ: حَيْثُ شَاءَ اللَّهُ، قَالَ عُمَرُ: وَالنَّارُ حَيْثُ شَاءَ اللَّهُ، فَقَالَ الْيَهُودِيُّ: وَالَّذِي نَفْسُكَ بِيَدِهِ يَا أَمِيرَ الْمُؤْمِنِينَ! إِنَّهَا لَفِي كِتَابِ اللَّهِ الْمُنَزَّلِ كَمَا قُلْتَ .

376. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Qays ibn Muslim al-Jadalī narrated to us that Ṭāriq ibn Shihāb al-Aḥmasī[1131] said, “A Jew came to ʿUmar ibn al-Khaṭṭāb ؓ and said, ‘What do you think of His statement, “*Race each other to forgiveness from your Lord and a Garden as wide as the heavens and the earth*,” so where is the Fire?’ ʿUmar ؓ said to the Companions of Muḥammad ﷺ, ‘Answer him,’ but none of them had anything about it for him,[1132] so ʿUmar ؓ said, ‘What do you think of the day: when it comes does it not fill the heavens and the earth?’ He said, ‘Of course.’ ‘So where is the night?’ He said, ‘It is where Allah wills.’ ʿUmar said, ‘And the Fire is where Allah wills.’ The Jew said, ‘By the One in Whose hand is your self, Amīr al-Mu’minin, it is in the revealed Book[1133] of Allah just as you say.’”””

٣٧٧- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : بَيْنَا أَنَا عِنْدَ عَطَاءِ بْنِ أَبِي رَبَاح فَسَأَلَه
عَلْقَمَةُ بْنُ مَرْثَدٍ الْحَضْرَمِيُّ قَالَ: إِنَّ بِمِصْرِنَا قَوْمًا صَالِحِينَ ، يَقُولُونَ: شَهِدْنَا إِنَّا مُؤْمِنُونَ ،
شَهِدْنَا إِنَّا من أَهْلِ الْجَنَّةِ ، قَالَ: فَقُولُوا : إِنَّكُمْ مُؤْمِنُونَ ، وَلَا تَقُولُوا : إِنَّا من أَهْلِ الْجَنَّةِ ،
فَوَاللَّهِ مَا فِي السَّمَاءِ مَلَكٌ مُقَرَّبٌ وَلَا من نَبِيّ مُرْسَلٍ وَلَا عَبْدٍ صَالح إِلَّا لِلَّهِ عَلَيْهِ السَّبِيلُ
وَالْحُجَّةُ ، أَمَّا مَلَكٌ أَطَاعَ اللَّه طَاعَةً حَسَنَةً فَاللَّهُ مَنَّ عَلَيْهِ بِتِلْكَ الطَّاعَة فَهُوَ مُقَصِّرٌ عَلَى
شُكْرِهَا ، وَأَمَّا نَبِيٌّ مُرْسَلٌ ، أَوْ عَبْدٌ صَالِحٌ أَذْنَبَ فَلِلَّهِ عَلَيْهِ السَّبِيلُ وَالْحُجَّةُ .

377. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘While I was with ʿAṭā’ ibn Abī Rabāḥ, ʿAlqamah ibn Marthad al-Ḥaḍramī asked him saying, “In our land there are right acting people who say, ‘We testify that we are mu’minūn[1134] and we testify that we are people of the Garden.’”[1135] He said, “So say, ‘You are mu’minūn, but do not say that “We are the people of the Garden,” for by Allah! there is no angel who is brought close nor prophet sent as a messenger nor right-acting slave but that Allah has a way against him and an argument against him. As for the angel who obeyed Allah well, Allah bestowed that obedience on him and he falls short in showing gratitude for it. As for a prophet sent as a messenger or right-acting slave, they might have wrong actions,[1136] and so Allah has a way against them and an argument against them.’”””

٣٧٨- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا عَطَاءُ بْنُ أَبِي رَبَاحٍ عَنْ عَبْدِ اللَّهِ بْنِ رَوَاحَةَ رَضِيَ اللَّهُ عَنْهُ : أَنَّهُ سَمَّى شَاةً مِن غَنَمِهِ لِرَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَأَوْصَى بِهَا جَارِيَةً لَهُ كَانَتْ فِي الْغَنَمِ ، وَكَانَ يَتَعَاهَدُهَا وَيَنْظُرُ إِلَيْهَا كُلَّمَا أَتَى الْغَنَمَ ، حَتَّى سَمِنَتْ وَصَلُحَتْ ، فَجَاءَ يَوْمًا ، فَفَقَدَهَا مِن الْغَنَمِ ، فَسَأَلَهَا عَنْهَا ، فَقَالَتْ : ضَاعَتْ ، وَلَطَمَ وَجْهَهَا ، فَلَمَّا سُرِّيَ ذَلِكَ عَنْهُ أَتَى النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ، فَأَخْبَرَهُ بِالْقِصَّةِ ، فَقَالَ : لَمْ أَمْلِكْ نَفْسِي أَنْ لَطَمْتُهَا ، قَالَ : فَأَعْظَمَ ذَلِكَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ، وَقَالَ : لَعَلَّهَا مُؤْمِنَةٌ ، قَالَ : يَا رَسُولَ اللَّهِ ! إِنَّهَا سَوْدَاءُ ، قَالَ : ايتِ بِهَا ، فَلَمَّا جَاءَ بِهَا ؛ قَالَ لَهَا النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ : أَمُؤْمِنَةٌ أَنْتِ؟ قَالَتْ : نَعَمْ ، قَالَ : فَأَيْنَ اللَّهُ ؟ قَالَتْ : فِي السَّمَاءِ ، قَالَ : مَنْ أَنَا ؟ قَالَتْ : أَنْتَ رَسُولُ اللَّهِ ، فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ : هِيَ مُؤْمِنَةٌ ، قَالَ : فَقَالَ عَبْدُ اللَّهِ بْنُ رَوَاحَةَ رَضِيَ اللَّهُ عَنْهُ : فَهِيَ حُرَّةٌ يَا رَسُولَ اللَّهِ .

378. Muḥammad said, "Abū Ḥanīfah informed us saying, '῾Aṭā' ibn Abī Rabāḥ narrated to us that ῾Abdullāh ibn Rawāḥah ؓ specified that a sheep among his flocks was for the Messenger of Allah ﷺ and he charged a slave girl of his who was with the flocks[1137] with responsibility for it. And he returned repeatedly to it and watched it whenever he went to the flocks until it fattened and was hale and hearty. Then he came one day and could not find it among his flocks, and so he asked her about it, and she said, "It is lost,"[1138] and he slapped her face. When that had departed from him,[1139] he went to the Prophet ﷺ and told him the story and said, "I could not restrain myself from slapping her." The Prophet ﷺ regarded it as a weighty matter, and said, "She might be a *mu'minah*." He said, "Messenger of Allah, she is black."[1140] He said, "Bring her here." When he brought her the Prophet ﷺ asked her, "Are you a *mu'minah*?" and she said, "Yes." He asked, "So where is Allah?[1141]"

and she said, “In the heaven.”[1142] He asked, “Who am I?” She said, “You are the Messenger of Allah.” So the Messenger of Allah ﷺ said, “She is a *mu’minah*.”’[1143] He said, ‘So ʿAbdullāh ibn Rawāḥah ؓ said, “Then she is free, Messenger of Allah.”’”

بَابُ الشَّفَاعَةِ

112. INTERCESSION

٣٧٩– مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ: سَأَلْتُه عَنْ قَوْلِ اللَّهِ: ﴿ رُبَمَا يَوَدُّ الَّذِينَ كَفَرُوا لَوْ كَانُوا مُسْلِمِينَ ﴾، قَالَ: يُعَذِّبُ اللَّهُ قَوْمًا مِمَّنْ كَانَ يَعْبُدُه وَلَا يَعْبُدُ غَيْرَه، وَقَوْمًا مِمَّنْ كَانَ يَعْبُدُ غَيْرَه، ثُمَّ يَجْمَعُهُمْ فِي النَّارِ، فَيُعَيِّرُ الَّذِينَ كَانُوا يَعْبُدُونَ غَيْرَ اللَّهِ الَّذِينَ كَانُوا يَعْبُدُونَه، فَيَقُولُونَ: عُذِّبْنَا لِأَنَّا عَبَدْنَا غَيْرَه، فَمَا أَغْنَتْ عَنْكُمْ عِبَادَتُكُمْ إِيَّاهُ وَقَدْ عُذِّبْتُمْ مَعَنَا، فَيَأْذَنُ الرَّبُّ تَبَارَكَ وَتَعَالَى لِلْمَلَائِكَةِ وَالنَّبِيِّينَ، فَيَشْفَعُونَ، فَلَا يَبْقَى فِي النَّارِ أَحَدٌ مِمَّنْ كَانَ يَعْبُدُه إِلَّا أَخْرَجَه، حَتَّى يَتَطَاوَلَ لِلشَّفَاعَةِ إِبْلِيسُ لِعِبَادَتِهِ الْأُولَى، قَالَ: فَيَقُولُ: ﴿ رُبَمَا يَوَدُّ الَّذِينَ كَفَرُوا لَوْ كَانُوا مُسْلِمِينَ ﴾.

379. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that he [Ḥammād] said, ‘I asked him about the statement of Allah, “*It may be that those who are kāfir will wish that they had been Muslims*.” (Sūrat al-Ḥijr: 2) He said, “Allah will punish some people of those who used to worship Him[1144] and who did not worship other than Him, and some people who used to worship other than Him.[1145] Then He will bring them together in the Fire, and the people who used to worship other than Allah will reproach those who used to worship Him and will say, ‘He is punishing us because We worshipped other than Him, but your worship of Him

has not helped you for you are being punished along with us.' Then the Lord will grant permission to the angels and the prophets and they will intercede, so that there will remain none in the Fire who used to worship Him but He will bring him out, so much so that Iblīs will look up [in hope] towards the intercession because of his former worship." He said,"[1146] So He says, '*It may be that those who are kāfir*[1147] *will wish that they had been Muslims*.'"'"

٣٨٠- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ رِبْعِيِّ بْنِ حِرَاشٍ الْعَبْسِيِّ عَنْ
حُذَيْفَةَ بْنِ الْيَمَانِ رَضِيَ اللَّهُ عَنْهُ قَالَ : يَدْخُلُ الْجَنَّةَ قَوْمٌ مُنْتِنِينَ قَدْ امْتَحَشَتْهُمُ النَّارُ .

380. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Ribʿī ibn Ḥarrāsh al-ʿAbsī that Ḥudhayfah ibn al-Yamān ؓ said, 'Some putrid[1148] people will enter the Garden whom the Fire has completely burnt.'"[1149]

٣٨١- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ سَلَمَةَ بْنِ كُهَيْلٍ عَنْ أَبِي الزَّعْرَاءِ عَنْ عَبْدِ
اللَّهِ بْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُمَا قَالَ: يُعَذِّبُ اللَّهُ قَوْمًا مِّنْ أَهْلِ الْإِيمَانِ بِذُنُوبِهِمْ، ثُمَّ
يُخْرِجُهُمْ بِشَفَاعَةِ مُحَمَّدٍ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ حَتَّى لَا يَبْقَى فِي النَّارِ إِلَّا مَنْ ذَكَرَ
اللَّهُ: ﴿مَا سَلَكَكُمْ فِي سَقَرَ قَالُوا: لَمْ نَكُ مِنَ الْمُصَلِّينَ، وَلَمْ نَكُ نُطْعِمُ الْمِسْكِينَ، وَكُنَّا
نَخُوضُ مَعَ الْخَائِضِينَ، وَكُنَّا نُكَذِّبُ بِيَوْمِ الدِّينِ، حَتَّى أَتَانَا الْيَقِينُ، فَمَا تَنْفَعُهُمْ شَفَاعَةُ
الشَّافِعِينَ﴾ .

381. Muḥammad said, "Abū Ḥanīfah informed us from Salamah ibn Kuhayl from Abū'z-Zaʿrā'[1150] that ʿAbdullāh ibn Masʿūd ؓ[1151] said, 'Allah will punish some people from among the people of *īmān* for their wrong actions, and then He will bring them out by the intercession of Muḥammad ﷺ until there only remain in the Fire those Allah mentioned, "'*What caused you to enter Saqar?*[1152] *They will say, 'We were not among those who did ṣalāh*[1153] *and we did not feed the poor. We plunged*[1154] *with those who plunged and denied the*

Day of Judgment until the Certain[1155] *came to us.’ The intercession of the interceders will not help them.*”[1156] (Sūrat al-Muddaththir: 41-47)’”

٣٨٢– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ عَطِيَّةَ الْعَوْفِيِّ عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ رَضِيَ اللَّهُ عَنْهُ قَالَ : قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ : مَنْ كَذَبَ عَلَيَّ مُتَعَمِّدًا فَلْيَتَبَوَّأْ مَقْعَدَهُ مِنَ النَّارِ . قَالَ: وَسَأَلْتُهُ عَنْ هذِهِ الآيَةِ: ﴿وَمِنَ اللَّيْلِ فَتَهَجَّدْ بِهِ نَافِلَةً لَّكَ عَسى أَنْ يَبْعَثَكَ رَبُّكَ مَقَاماً مَّحْمُوداً﴾ قَالَ : الْمَقَامُ الْمَحْمُودُ الشَّفَاعَةُ. قَالَ : يُعَذِّبُ اللَّهُ قَوْمًا مِّنْ أَهْلِ الإِيْمَانِ بِذُنُوبِهِمْ ، ثُمَّ يُخْرِجُهُمْ بِشَفَاعَةِ مُحَمَّدٍ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَيُؤْتَى بِهِمْ نَهْرًا يُقَالُ لَهُ: ﴿الْحَيَوَانُ﴾ ، فَيَغْتَسِلُونَ فِيهِ غُسْلَ الثَّعَارِيرِ، ثُمَّ يَدْخُلُونَ الْجَنَّةَ فَيُسَمَّوْنَ الْجَهَنَّمِيِّينَ ، ثُمَّ يَطْلُبُونَ إِلَى اللَّهِ، فَيَذْهَبُ ذَلِكَ الاِسْمَ عَنْهُمْ.

382. Muḥammad said, “Abū Ḥanīfah informed us from ʿAṭiyyah al-ʿAwfī that Abū Saʿīd al-Khudrī ﵁ said, ‘The Messenger of Allah ﷺ said, “Let whoever deliberately attributes a lie to me prepare his seat in the Fire.”’[1157] He said, ‘I asked him about this *āyah*, “*And stay awake for prayer during part of the night*[1158] *as a supererogatory action for yourself.*[1159] *It may well be that your Lord will raise you to a Praiseworthy Station.*” (Sūrat al-Isrā’: 79) He said, “The Praiseworthy Station is intercession.”’[1160] He said, ‘Allah will punish some of the people of *īmān* for their wrong actions and will then bring them out [of the Fire] by the intercession of Muḥammad ﷺ, and they will be brought to a river[1161] called Life[1162] in which they will bathe[1163] like the bathing of small cucumbers.[1164] Then they will enter the Garden and they will be called the Jahannamis, but then they will petition Allah[1165] and He will remove that name from them.’”[1166] [1167]

٣٨٣– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ شَدَّادِ بْنِ عَبْدِ الرَّحْمنِ، عَنْ أَبِي سَعِيدٍ الْخُدْرِيِّ رَضِيَ اللَّهُ عَنْهُ بِمِثْلِ ذَلِكَ.

383. Muḥammad said, “Abū Ḥanīfah informed us of the like of this from Shaddād ibn ʿAbd ar-Raḥmān from Abū Saʿīd al-Khudrī ؓ.”

٣٨٤– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ يَزِيدَ بْنِ صُهَيْبٍ (الَّذِي يُقَالُ لَهُ: الْفَقِيرُ)
عَنْ جَابِرِ بْنِ عَبْدِ اللهِ الْأَنْصَارِيِّ رَضِيَ اللَّهُ عَنْهُ قَالَ : سَأَلْتُه عَنِ الشَّفَاعَةِ، فَقَالَ :
يُعَذِّبُ اللَّهُ قَوْمًا من أَهْلِ الْإِيْمَانِ ، ثُمَّ يُخْرِجُهُمْ بِشَفَاعَةِ مُحَمَّدٍ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ.
قَالَ : قُلْتُ لَهُ فَأَيْنَ قَوْلُ اللَّهِ: ﴿يُرِيدُونَ أَنْ يَخْرُجُوا من النَّارِ وَمَا هُمْ بِخَارِجِينَ مِنْهَا
وَلَهُمْ عَذَابٌ مُّقِيمٌ﴾؟ فَقَالَ: هذِهِ فِي الَّذِينَ كَفَرُوا ، اِقْرَأْ مَا قَبْلَهَا .

384. Muḥammad said, “Abū Ḥanīfah informed us from Yazīd ibn Ṣuhayb (the one known as “The *Faqīr*[1168] [Needy]”) from Jābir ibn ʿAbdullāh al-Anṣārī ؓ who [Yazīd] said, ‘I asked him [Jābir] about intercession and he said, “Allah will punish some of the people of *īmān*[1169] and then bring them out [of the Fire] by the intercession of Muḥammad ﷺ.”’ He said, ‘I said to him, “So what about the statement of Allah, ‘*They will want to get out of the Fire but they will not be able to.*[1170] *They will have an everlasting punishment*’? (Sūrat al-Mā’idah: 37).” He said, “This is about those who are *kāfir*; read what precedes it.”’”[1171]

◆

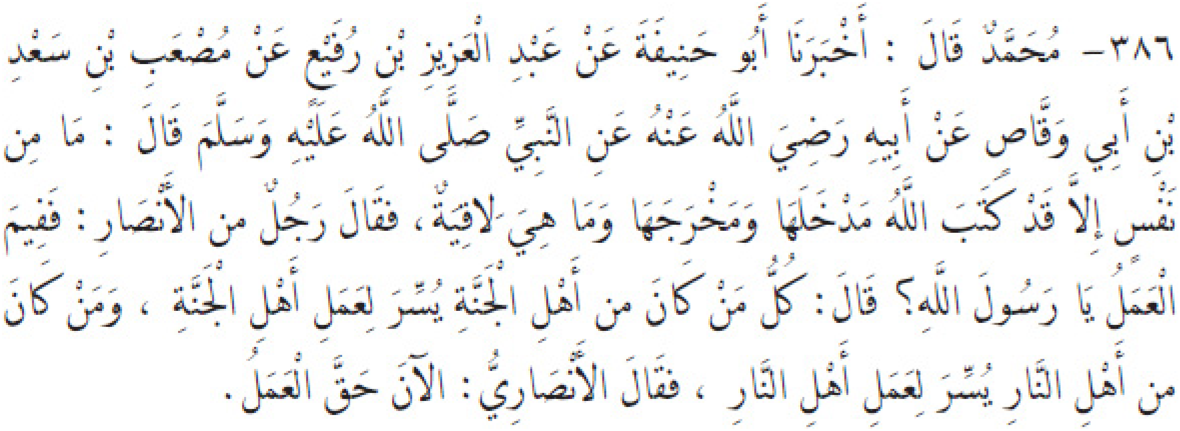
بَابُ التَّصْدِيقِ بِالْقَدَرِ

113. AFFIRMATION OF THE DECREE

٣٨٥- مُحَمَّدٌ قالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قالَ: حَدَّثَنَا أَبُو الزُّبَيْرِ عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ الأَنْصَارِيِّ رَضِيَ اللَّهُ عَنْهُ عَنِ النَّبِيِّ صلى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: سَأَلَهُ سُرَاقَةُ بْنُ مَالِكِ بْنِ جُعْشُمَ الْمُدْلِجِيُّ رَضِيَ اللَّهُ عَنْهُ فَقَالَ: يَا رَسُولَ اللَّهِ! أَخْبِرْنَا عَنْ عُمْرَتِنَا هذه، أَلِعَامِنَا هَذَا أَمْ لِلأَبَدِ؟ فَقَالَ: لِلأَبَدِ ، قَالَ: أَخْبِرْنَا عَنْ دِينِنَا هَذَا ، كَأَنَّمَا خُلِقْنَا لَهُ، فِي أَيِّ شَيْءٍ الْعَمَلُ ؟ فِي شَيْءٍ قَدْ جَرَتْ بِهِ الأَقْلامُ ، وَثَبَتَتْ بِهِ الْمَقَادِيرُ ؟ أَمْ فِي شَيْءٍ نَسْتَأْنِفُ فِيهِ الْعَمَلَ ؟ قَالَ: فِي شَيْءٍ قَدْ جَرَتْ بِهِ الأَقْلامُ ، وَثَبَتَتْ بِهِ الْمَقَادِيرُ، قَالَ : فَفِيمَ الْعَمَلُ يَا رَسُولَ اللَّهِ ؟ فَقَالَ : اعْمَلُوا ، فَكُلُّ عَامِلٍ مُيَسَّرٌ، مَنْ كَانَ مِن أَهْلِ الْجَنَّةِ يُسِّرَ لِعَمَلِ أَهْلِ الْجَنَّةِ، وَمَنْ كَانَ من أَهْلِ النَّارِ يُسِّرَ لِعَمَلِ أَهْلِ النَّارِ، ثُمَّ تَلا هذه الآيَةَ : ﴿فَأَمَّا مَنْ أَعْطَى وَاتَّقَى وَصَدَّقَ بِالْحُسْنَى فَسَنُيَسِّرُهُ لِلْيُسْرَى ، وَأَمَّا مَنْ بَخِلَ وَاسْتَغْنَى وَكَذَّبَ بِالْحُسْنَى فَسَنُيَسِّرُهُ لِلْعُسْرَى﴾ .

385. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Abū’z-Zubayr narrated to us from Jābir ibn ʿAbdullāh al-Anṣārī ﵁ from the Prophet ﷺ. [Jābir] said, “Surāqah ibn Mālik ibn Juʿshum al-Mudlijī ﵁ asked him, ‘Messenger of Allah, tell us about this ʿUmrah of ours, is it for this year of ours or is it forever?’ And he said, ‘It is forever.’ He said, ‘Tell us about this *dīn* of ours,[1172] which is as if we were created for it; for what purpose is action?[1173] Is it for something which the pens have already written[1174] and for which the decrees are already fixed or is it for something we have begun to act towards?’ He answered, ‘It is for something which the pens have already written and for which the decrees are already fixed.’ He asked, ‘Then for what purpose is our action, Messenger of Allah?’ He said, ‘Act,[1175] for each one who acts will find his way made easy.[1176] Whoever is one of the people of the Garden will find the actions of the people of the Garden[1177] made easy. Whoever is one of the people of the Fire will find the actions of the people of the Fire made easy.’ Then he recited this *āyah*, ‘*As for him who gives out*

and has taqwā and confirms the Good, We will ease his way to Ease. But as for him who is stingy and self-satisfied, and denies the Good, We will ease his way to Difficulty' (Sūrat al-Layl: 5-10).'""[1178]



٣٨٦- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ عَبْدِ الْعَزِيزِ بْنِ رُفَيْعٍ عَنْ مُصْعَبِ بْنِ سَعْدِ
بْنِ أَبِي وَقَّاص عَنْ أَبِيهِ رَضِيَ اللَّهُ عَنْهُ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ : مَا مِن
نَفْسٍ إِلَّا قَدْ كَتَبَ اللَّهُ مَدْخَلَهَا وَمَخْرَجَهَا وَمَا هِيَ لَاقِيَةٌ ، فَقَالَ رَجُلٌ مِن الْأَنْصَارِ : فَفِيمَ
الْعَمَلُ يَا رَسُولَ اللَّهِ؟ قَالَ: كُلُّ مَنْ كَانَ مِن أَهْلِ الْجَنَّةِ يُسِّرَ لِعَمَلِ أَهْلِ الْجَنَّةِ ، وَمَنْ كَانَ
مِن أَهْلِ النَّارِ يُسِّرَ لِعَمَلِ أَهْلِ النَّارِ ، فَقَالَ الْأَنْصَارِيُّ : الْآنَ حَقَّ الْعَمَلُ .

386. Muḥammad said, "Abū Ḥanīfah informed us from ʿAbd al-ʿAzīz ibn Rufayʿ from Muṣʿab ibn Saʿd ibn Abī Waqqāṣ from his father from the Prophet who said, 'There is no self[1179] but that Allah has written its entrance[1180] and its exit[1181] and what it will meet.'[1182] A man of the Anṣār said,[1183] 'Then for what purpose is action, Messenger of Allah?' He said, 'Everyone who is of the people of the Garden will find his way eased to the actions of the people of the Garden. Whoever is one of the people of the Fire will find his way eased to the actions of the people of the people of the Fire.' The Anṣārī man said, 'Now action is genuine.'"[1184]

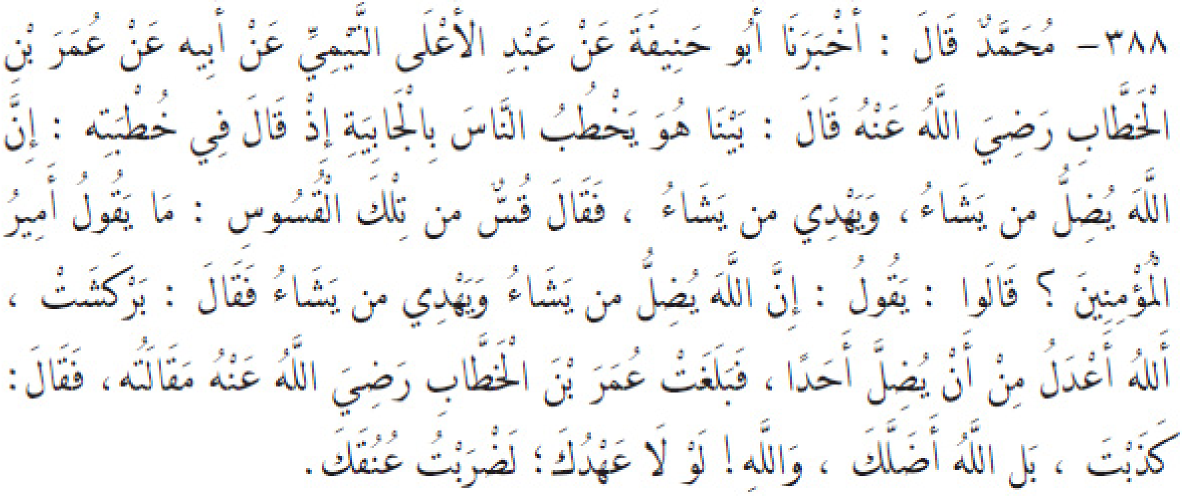
٣٨٧- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا عَلْقَمَةُ بْنُ مَرْثَدٍ الْحَضْرَمِيُّ عَنْ يَحْيَى بْنَ يَعْمُرَ قَالَ : بَيْنَا نَحْنُ فِي مَسْجِدِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ إِذْ رَأَيْتُ ابْنَ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا قَاعِداً فِي جَانِبِه، فَقُلْتُ لِصَاحِبِي هَلْ لَكَ أَنْ تَأْتِيَ ابْنَ عُمَرَ فَتَسْأَله عَنِ الْقَدَرِ؟ فقَالَ: نَعَمْ، فَقُلْتُ : دَعْنِي حَتَّى أَكُونَ أَنَا الَّذِي أَسْأَلُه فَإِنِّي أَرْفَقُ بِه منكَ، فَأَتَيْنَاهُ فَقَعَدْنَا إِلَيْهِ ، فَقُلْتُ لَهُ: يَا أَبَا عَبْدِ الرَّحْمَنِ! إِنَّا قَوْمٌ نَتَقَلَّبُ فِي هذِهِ الأَرَضِينَ، فَرُبَمَا قَدِمنا الْبَلَدَ بِه قَوْمٌ يَقُولُونَ: لَا قَدْرَ، قَالَ : أَبْلِغُوهُمْ أَنِّي منهُمْ بَرِيءٌ، وَأَنِّي لَوْ أَجِدُ أَعْوَاناً لَجَاهَدْتُهُمْ، قَالَ: ثُمَّ أَنْشَأَ يُحَدِّثُنَا قَالَ: بَيْنَا نَحْنُ عِنْدَ رَسُولِ اللَّهِ صلى اللَّهُ عَلَيْهِ وَسَلَّمَ فِي نَاسٍ مِّنْ أَصْحَابِه، إِذْ أَقْبَلَ شَابٌّ جَمِيلٌ حَسَنُ اللِّمَّةِ طَيِّبُ

الرِّيح ، عَلَيْهِ ثَوْبٌ بِيضٌ فَقَالَ: اَلسَّلامُ عَلَيْكَ يَا رَسُولَ اللَّهِ! اَلسَّلامُ عَلَيْكُم ، فَرَدَّ
النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، وَ رَدَدْنَا ، ثُمَّ قَالَ: أَدْنُو يَا رَسُولَ اللَّهِ؟ فَقَالَ: ادْنُهْ ،
فَدَنَا دَنْوَةً أَوْ دَنْوَتَيْنِ، ثُمَّ قَامَ مُوقِّرًا لَهُ، ثُمَّ قَالَ: أَدْنُو يَا رَسُولَ اللَّهِ؟ فَقَالَ: ادْنُهْ، فَدَنَا
دَنْوَةً أَوْ دَنْوَتَيْنِ، ثُمَّ قَامَ مُوقِّرًا لَهُ ، ثُمَّ قَالَ : أَدْنُو يَا رَسُولَ اللَّهِ؟ فَقَالَ: ادْنُهْ، فَدَنَا دَنْوَةً
أَوْ دَنْوَتَيْنِ، ثُمَّ قَامَ مُوقِّرًا لَهُ ، ثُمَّ قَالَ : أَدْنُو يَا رَسُولَ اللَّهِ؟ فَقَالَ: ادْنُهْ حَتَّى جَلَسَ،
فَأَلْصَقَ رُكْبَتَيْهِ بِرُكْبَتَيْ رَسُولِ اللَّهِ ﷺ ثُمَّ قَالَ : أَخْبِرْنِي عَنِ الإِيْمَانِ مَا هُوَ ؟ قَالَ :
الإِيْمَانُ بِاللَّهِ وَمَلائِكَتِهِ وَكُتُبِهِ وَرُسُلِهِ وَالْيَوْمِ الآخِرِ وَالْقَدَرِ خَيْرِهِ وَشَرِّهِ من اللَّهِ، قَالَ:
صَدَقْتَ، فَتَعَجَّبْنَا لِقَوْلِهِ: صَدَقْتَ، كَأَنَّهُ يَعْلَمُ. قَالَ : فَأَخْبِرْنِي عَنْ شَرَائِعِ الإِسْلامِ مَا
هِيَ؟ قَالَ: إِقَامُ الصَّلوةِ، وَإِيْتَاءُ الزَّكَاةِ، وَحَجُّ الْبَيْتِ، وَصَوْمُ شَهْرِ رَمَضَانَ، وَالاغْتِسَالُ
من الْجَنَابَةِ، قَالَ: صَدَقْتَ، فَتَعَجَّبْنَا لِقَوْلِهِ: صَدَقْتَ، كَأَنَّهُ يَعْلَمُ. قَالَ : فَأَخْبِرْنِي
عَنِ الإِحْسَانِ مَا هُوَ ؟ قَالَ : تَعْمَلُ لِلَّهِ كَأَنَّكَ تَرَاهُ، فَإِنْ لَمْ تَكُنْ تَرَاهُ فَإِنَّهُ يَرَاكَ، قَالَ:
صَدَقْتَ، فَتَعَجَّبْنَا لِقَوْلِهِ : صَدَقْتَ كَأَنَّهُ يَعْلَمُ. قَالَ : فَأَخْبِرْنِي عَنْ قِيَامِ السَّاعَةِ مَتَى
هُوَ ؟ قَالَ : مَا الْمَسْئُولُ عَنْهَا بِأَعْلَمَ من السَّائِلِ ، قَالَ: صَدَقْتَ ، فَتَعَجَّبْنَا لِقَوْلِهِ:
صَدَقْتَ، فَانْصَرَفَ؛ وَ نَحْنُ نَرَاهُ ، إِذْ قَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ : عَلَيَّ بِالرَّجُلِ،
فَسِرْنَا فِي أَثَرِهِ ، فَمَا نَدْرِي أَيْنَ تَوَجَّهَ، وَلا رَأَيْنَا مِنْهُ شَيْئًا ، فَذَكَرْنَا ذَلِكَ لِلنَّبِيِّ صَلَّى اللَّهُ
عَلَيْهِ وَسَلَّمَ فَقَالَ: هَذَا جِبْرِيلُ، أَتَاكُمْ يُعَلِّمُكُمْ مَعَالِمَ دِينِكُمْ، مَا أَتَانِي فِي صُورَةٍ قَطُّ إِلَّا
وَأَنَا أَعْرِفُهُ فِيهَا قَبْلَ هَذِهِ الصُّورَةِ.

387. Muḥammad said, "Abū Ḥanīfah informed us saying, "ʿAlqamah ibn Marthad al-Ḥaḍramī narrated to us from Yaḥyā ibn Yaʿmur who said, "While we were in the mosque of the Messenger of Allah ﷺ I saw Ibn ʿUmar ﵄ sitting to one side. So I said to my companion, 'Would you like to go to Ibn ʿUmar and ask him about the

Decree[1185]?' He said, 'Yes,' so I said, 'Allow me to be the one who asks him, for I will be more courteous[1186] towards him than you.' We went and sat down with him, and I said to him, 'Abū ʿAbd ar-Raḥmān, we[1187] are some people who travel here and there in these lands and sometimes we come to a place in which there are people who say, "There is no decree."'[1188] He said, 'Convey to them that I am quit of them, and that if I could find supporters I would wage jihad on them.'[1189] Then he set to narrating to us[1190] and he said, 'While we were with the Messenger of Allah ﷺ among some of his Companions, a handsome youth, with good hair reaching to his shoulders, and with a fragrance came, wearing white clothing, and he said, "Peace be upon you,[1191] Messenger of Allah, and peace be upon all of you."[1192] The Prophet ﷺ returned his greeting as did we. Then he said, "I will approach, Messenger of Allah." He said, "Approach!" and he approached a step or two and then he stood out of respect for him. Then he said, "I will approach, Messenger of Allah." He said, "Approach!" and he approached a step or two and then he stood out of respect for him. Then he said, "I will approach, Messenger of Allah." He said, "Approach!" and he approached a step or two and then he stood out of respect for him. Then he said, "I will approach, Messenger of Allah." He said, "Approach!" until he sat down with his knees touching the knees[1193] of the Messenger of Allah ﷺ. Then he said, "Tell me about *īmān*; what is it[1194]?" He said, "It is *īmān*[1195] in Allah and His angels, His books, His messengers, the Last Day and that the Decree, both the good of it and the evil of it[1196] is from Allah."[1197] He said, "You tell the truth," and we were astonished at his saying, "You tell the truth," as if he already knew[1198]. He said, "So tell me about the laws of Islam;[1199] what are they?" He said, "Establishment of the prayer,[1200] payment of *zakāh*, Hajj of the House, fasting the month of Ramaḍān, and performing *ghusl* after sexual relations (*janābah*)." He said, "You tell the truth," and we were astonished at his saying, "You tell the truth," as if he already knew. He said, "Tell me about excellence (*iḥsān*[1201]); what is it?" He said, "That you act[1202] for the sake of

Allah as if you see Him, for if you do not see Him, He sees you." He said, "You tell the truth," and we were astonished at his saying, "You tell the truth," as if he already knew. He said, "Tell me about the coming of the Hour;[1203] when will that be?" He said, "The one questioned about it[1204] knows no more than the questioner." He said, "You tell the truth," and we were astonished at his saying, "You tell the truth," as if he already knew. Then he departed while we were watching him. Then the Prophet ﷺ said, "Bring me the man,"[1205] and we went off in his footsteps, but we didn't know where he had taken himself to, and we saw nothing of him. So we mentioned that to the Prophet ﷺ and he said, "This was Jibrīl who came to you to teach you the waymarks of your *dīn*.[1206] He has never come to me in a form[1207] without me recognising him in it, before this form."""""[1208]


٣٨٨- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ عَبْدِ الأَعْلَى التَّيْمِيِّ عَنْ أَبِيهِ عَنْ عُمَرَ بْنِ
الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ قَالَ : بَيْنَا هُوَ يَخْطُبُ النَّاسَ بِالْجَابِيَةِ إِذْ قَالَ فِي خُطْبَتِهِ : إِنَّ
اللَّهَ يُضِلُّ من يَشَاءُ ، وَيَهْدِي من يَشَاءُ ، فَقَالَ قَسٌّ من تِلْكَ الْقُسُوس : مَا يَقُولُ أَمِيرُ
الْمُؤْمِنِينَ ؟ قَالَوا : يَقُولُ : إِنَّ اللَّهَ يُضِلُّ من يَشَاءُ وَيَهْدِي من يَشَاءُ فَقَالَ : بَرْكَشْتْ ،
اللهُ أَعْدَلُ مِنْ أَنْ يُضِلَّ أَحَدًا ، فَبَلَغَتْ عُمَرَ بْنَ الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ مَقَالَتُه ، فَقَالَ:
كَذَبْتَ ، بَلِ اللَّهُ أَضَلَّكَ ، وَاللهِ ! لَوْ لَا عَهْدُكَ ؛ لَضَرَبْتُ عُنُقَكَ .

388. Muḥammad said, "Abū Ḥanīfah informed us from ʿAbd al-Aʿlā at-Taymī from his father that ʿUmar ibn al-Khaṭṭāb ؓ said while delivering the *khuṭbah* to people at al-Jābiyah[1209] when he said in his *khuṭbah*, 'Allah misleads whomever He wills and guides whomever He wills.' One of those priests[1210] said, 'What does the Amīr al-Mu'minīn say?' They said, 'He says, "Allah misleads whomever He wills and guides whomever He wills."' He said, 'That is upside-down! Allah is too just to mislead anyone!' That saying of his reached ʿUmar ibn al-Khaṭṭāb ؓ and he said, 'On the contrary,

Allah has misled you. By Allah! if it were not for your covenant[1211] I would have struck off your head.'"[1212]

٣٨٩- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا يَزِيدُ بْنُ عَبْدِ الرَّحْمَنِ عَنْ أَبِي وَاثِلَةَ أَوْ ابْنِ وَاثِلَةَ (شَكَّ مُحَمَّدٌ) عَنْ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُمَا قَالَ: تَكُونُ النُّطْفَةُ فِي الرَّحِمِ أَرْبَعِينَ يَوْمًا ، ثُمَّ تَكُونُ عَلَقَةً أَرْبَعِينَ يَوْمًا ، ثُمَّ تَكُونُ مُضْغَةً أَرْبَعِينَ يَوْمًا ، ثُمَّ يُنْشَأُ خَلْقُه ، فَيَقُولُ : رَبِّ ، أَذَكَرٌ أَوْ أُنْثَى ؟ شَقِيٌّ أَوْ سَعِيدٌ ؟ وَمَا رِزْقُه ؟

389. Muḥammad said, "Abū Ḥanīfah informed us saying, 'Yazīd ibn ʿAbd ar-Raḥmān narrated to us from Abū Wāthilah or Ibn Wāthilah (Muḥammad was in doubt) that ʿAbdullāh ibn Masʿūd said, 'The drop [of sperm] is in the womb for forty days, and then it is a clinging blood clot[1213] for forty days, then it is a morsel of flesh[1214] for forty days, and then its outward form is originated, so he [the angel] says, "Is it male or female? Miserable or fortunate? What is its provision?""'"[1215]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، الشَّقِيُّ مَنْ شَقِيَ فِي بَطْنِ أُمِّه ، وَالسَّعِيدُ من وُعِظَ بِغَيْرِه .

Muḥammad said, "We adhere to this. The one who is [ultimately] miserable is the one who is miserable in his mother's womb, and the fortunate person is the one who draws admonition from others' [experiences]."

[1109] Because of his having attained *īmān*, however with the precondition that he die in that condition.

[1110] Meaning "even if he does major wrong actions?"

[1111] To underline it more and to engrave it on his understanding.

[1112] And in one narration with the addition of, "Sincerely."

[1113] Because *īmān* necessarily requires that one enter the Garden as one's ultimate abode and that the person who has *īmān* will not be forever in the Fire. In it there is refutation of the *khwārij* and the *muʿtazilah*.

[1114] i.e., his nose cleave to the dust since he he goes too far in asking questions and insisting on an answer.

[1115] Abū Yūsuf narrated it on p.197.

[1116] He used his *kunyah* in order to show honour to him.

[1117] Because the perpetrator of major wrong actions does not exit from *īmān*, contrary to the *muʿtazilah*.

[1118] Such as the *khawārij* and rebels.

[1119] Because they were mistaken in their independent exertion of their intellects to arrive at a judgement (*ijtihād*) and fell into a situation contrary to that which they intended. A group narrate this hadith as one ascribed directly to the Prophet ﷺ (*marfūʿ*) even if it outwardly stops short at Ibn ʿUmar (as a *mawqūf*).

[1120] Buraydah ibn al-Ḥaṣīb.

[1121] Visiting in the sense of visiting the sick, so that visiting sick *kuffār* when they are sick would be permissible, and along with that the intention of guiding them is required for extra reward.

[1122] And in another narration, "and so he found him dying," i.e., in the delirium and throes of death.

[1123] About his condition and his illness.

[1124] Hoping that he would have *īmān* and be saved from the Fire since what matters is the seal of destiny.

[1125] Like someone seeking advice so that he would tell him and advise him to have *īmān*, because his heart already inclined to the two acts of witnessing (*shahādatayn*) but his father's prohibition held him back, and so he sought him to indicate to him.

[1126] Indicating that he was not pleased.

[1127] Taking into consideration his [son's] inclination, and not from his own heart.

[1128] Rejoicing and happy because of his being saved and his acceptance of Islam, and the fact that he ﷺ was the means of his salvation, and so he praised Allah for that.

[1129] A person (*nafs*) and a creature with a spirit.

[1130] From its punishment and from dwelling in it forever.

[1131] A Follower.

[1132] i.e., they had no *āyāt* or hadith, and had no answer to it.

[1133] It is probable that he meant the Tawrāh.

[1134] With conviction and certainty, so say, “You are *mu’minūn,*” and in another narration, “We are *mu’minūn.*”

[1135] Because of the lack of complete conviction in unqualified *īmān*. Indeed, even if one could securely assert one’s conviction of having *īmān*, it does not necessarily require that one have conviction that we are *the* people of the Garden but rather conviction in the promise, because His punishing all of the *mu’minūn* or not entering them into the Garden would not be unjust to such an extent that it is unthinkable and thus one could not realistically have conviction [of entering the Garden]. That is because complete and utter avoidance of falling short in what is due Him and discharge of the gratitude due His ceaseless blessings, which is the duty that is not possible for anyone, so much so that slips even issued from the prophets for which they were reproached, and thus they fear their Lord and have awe of the Day of Rising, and remember some of their slips when they seek to excuse themselves from interceding. Thus even if He were to punish them for the likes of these many shortcomings it would not be unjust but, on the contrary, just.

[1136] As to the wrong actions of the prophets and messengers, there are those who think that they can do minor wrong actions, and those who do not regard that as possible, but as for major wrong actions everyone is agreed that that is not possible for them. Some say that their wrong actions are very fine matters of courtesy towards Allah, etc.

[1137] She shepherded and safeguarded his flocks.

[1138] In another narration, “And the shepherdess was occupied (*ishtaghalat* I take to be the correct reading although my text has *istaghallat*) with some of the sheep and the wolf came and seized the sheep and killed it.

[1139] When the anger he experienced had gone, and in another narration, “Then later he regretted that.”

[1140] In another narration there is, “She is not known to have *īmān*.”

[1141] He asked her about His place in order to distinguish the fact that He is in the heaven from earthly idols. Though He is transcendent above residing in the heaven, it is also ascribed to Him as a way of exalting Him and honouring His authority, and He is named by it as an honorific form out of His exaltedness and the highness of His station.

[1142] i.e., His command rule, but otherwise He is pure beyond place and direction, and on that we have His saying, exalted is He, “*It is He who is God in heaven and God on earth*” (Sūrat az-Zukhruf: 84), and, “*He is with you wherever you are*” (Sūrat al-Ḥadīd: 4).

[1143] Thus we realise that the truth of *īmān* is affirmation of oneness and the message, and the other rulings are outside of that.

[1144] Muslims who perpetrate major wrong actions.

[1145] *kuffār*.

[1146] Ibrāhīm.

[1147] The *kuffār* will say when those disobedient Muslims exit [from the Fire], “If only we had been Muslims,” and that is the explanation of the saying of Allah ﷻ, “*It may be that those who are kāfir will wish that they had been Muslims*.”

[1148] Foul smelling.

[1149] *imtaḥashat* means it has burnt their skins, their flesh and the outer parts of their bones, may Allah give us refuge from that.

[1150] Whose name was ʿAbdullāh ibn Hāni’ al-Kūfī.

[1151] The text mistakenly had “may Allah be pleased with both of them” in the Arabic text. We do not know of his father being a Muslim although his mother was. — Trans.

[1152] This question is asked of the criminal *kuffār*, meaning, “What thing made you enter into Jahannam?”

[1153] It is conceivable that [those who did *ṣalāh*] is a reference to the *mu’minūn*.

[1154] i.e., “We used to enter into falsehood.” *Khawḍ* [plunge] is originally to begin to enter water.

[1155] Death.

[1156] This *āyah* necessarily requires that even if the *mu’minūn* are deviant, the intercession of those who intercede will benefit them. The angels, prophets, martyrs, right-acting and all of the *mu’minūn* will intercede for them.

[1157] i.e., let him take his dwelling in the Fire, and it is said that it is a *duʿā* whose working is that of an indirect command, meaning “May Allah lodge him….” It is also said that it is simply an informing whose wording is a command, meaning, “He deserves that so let him …”

[1158] i.e., stand for some time in the night.

[1159] “As an obligatory act over and above the five prayers which is particular to you [the Prophet ﷺ] but not for the Ummah.”

[1160] The generic noun “intercession”, “in which station the first and the last will praise you [the Prophet ﷺ]”.

[1161] One of the rivers of the Garden.

[1162] *ḥayawān*: the river of eternal life.

[1163] Everything they dislike will thus leave them.

[1164] The point of similarity being the speed of growth, [i.e., because the small cucumbers called *thuʿrūr* grow speedily. – Trans.].

[1165] They will seek the removal of that name because it is written on their foreheads, “These have been freed from the Fire.”

[1166] He will erase that name from their foreheads and from the hearts of the people of the Garden.

[1167] Abū Yūsuf narrated it on p.207 in an abridged form.

[1168] Thus named because he had an affliction in the vertebrae of his back, from which he suffered so much pain that he would have a crooked posture.

[1169] Who have done wrong actions.

[1170] Meaning that outwardly it gives the sense that all those who enter it will not come out of it, as some of the people of *bidʿah* falsely imagined.

[1171] So that you will learn its interpretation, “*As for those who are kāfir, …*” (Sūrat al-Māʾidah: 36) means that it is about those who are *kuffār* and their not coming out of the Fire and dwelling therein forever is particular for them. As for the ruling on wickedly wrong-acting people, they are subject to His will, as in His saying, exalted is He, “*but He forgives whoever He wills for anything other than that.*” (Sūrat an-Nisāʾ: 47, 115) They must necessarily come out of it just as is shown by decisive proofs from the hadith, such as his saying ﷺ, “Whoever says, ‘There is no god but Allah,’ will enter the Garden,” i.e., even if belatedly, in order to reconcile the different arguments.

[1172] i.e., the reality of its affair.

[1173] i.e., For what reason are things decided on the basis of action, since everything is according to the will of Allah, exalted is He?

[1174] i.e., “and which has been decreed among affairs in before-time?” meaning those decrees which Allah wrote in the Preserved Table (*al-lawḥ al-maḥfūẓ*).

[1175] i.e., do not give up action, because you are commanded to it. The upshot is that even if the actions which you bring into existence are decreed from before-time and written in the Tablet and are comprised in the knowledge of the Maker and His will and power, yet this decreeing does not necessarily require that it is coercive nor that it wrests the power to earn [their deeds] from the slaves because all deeds are of the rank of citation and expression and not of the rank of practical effectiveness, so they do not lead to coercion. There is no doubt that actions are comprised under our power and choice according to what is sensed outwardly. Yes of course, this is the power of acquisition [of decreed deeds] and not the power of creation and effectiveness.

[1176] i.e., what action is decreed for him will be eased and ready formed.

[1177] Until he dies in that state.

[1178] Muslim narrated the like of it under "the Decree" in the chapter on "how the human (Ādamī) was created."

[1179] i.e., of the children of Adam.

[1180] The place of his entrance and its time and all the rest of his business from the beginning of his birth until the end of his life.

[1181] The place of his exit and its time and the end of his period and the requirements (*muqtaḍā*) of his knowledge.

[1182] i.e., that which it will meet after the two conditions from the beginning of the rising from the dead up until endless time whether it will be one of the people of the Garden or be punished, and in it there is a nod to His saying, "*O Man! You are toiling laboriously towards your Lord but meet Him you will!*" (Sūrat al-Inshiqāq: 6)

[1183] Because he thought that action makes reward necessary and necessarily requires punishment irrespective of what was previously decreed.

[1184] i.e., The manifestation of the benefit of action has become firmly established.

[1185] i.e., about *īmān* from the perspective of his affirmation or negation because of the disagreement people have about it.

[1186] I know him better than you.

[1187] The company of Followers.

[1188] i.e., that there is no foreordained destiny.

[1189] Because of their confusing the matter of the *dīn*.

[1190] From the Prophet ﷺ.

[1191] Greeting him particularly.

[1192] Turning to his Companions generally.

[1193] And in one narration placing his hands on his thighs ﷺ meaning to come completely close to him.

[1194] i.e., about that which is believed in, in summary.

[1195] *īmān* has multiple meanings including "to believe in" as well as its classical definition *taṣdīq* which has the sense of "affirmation." As an attribute of Allah, Who is al-Mu'min, it means "to render secure or safe from fear." "Its primary meaning is the *becoming true to the trust with respect to which God has confided in one, by a firm believing with the heart; not by profession of belief with the tongue only, without the assent of the heart.*" (*Lane's Arabic-English Lexicon* in which the entry is translated from the *Tahdhīb* of al-Azharī). – Trans.

[1196] The sweet and bitter of it, the benefit and the harm of it.

[1197] From His decree and His command.

[1198] As if he knew the ruling specifically and asked about it as a test.

[1199] About its obligations and its essential elements.

[1200] Establishment of the prayer with its preconditions (such as *wuḍū'* and facing the *qiblah*) and its essential elements (*arkān*). In the famous narrations instead of these five, there is the *shahādah* that there is no god but Allah and that Muḥammad is the Messenger of Allah, which is as it were the first pillar, and that is in agreement to that which is transmitted in the *ṣaḥīḥ* "Islam is built upon five."

[1201] *iḥsān* or "excellence" is the beautification (*taḥsīn*) of *īmān* and Islam. – Trans.

[1202] And in the famous narration it is "that you worship Allah...."

[1203] i.e., when is the time at which it will come about?

[1204] Everyone asked about is incapable of answering about it just as is the questioner.

[1205] "Seek him out and bring him to me," or "Bring the man back to me."

[1206] A synopsis of its legislations which are useful to you, or the way to ask about them.

[1207] Such as Diḥyah [al-Kalbī] and others.

[1208] Al-Bukhārī narrated it under "*īmān*" in the chapter on "Jibrīl's questioning the Prophet ﷺ about *īmān*," [and] in the chapter on *"īmān*, Islam and *iḥsān*."

[1209] A town near Damascus, and in this place ʿUmar ibn al-Khaṭṭāb رضي الله عنه gave his famous *khuṭbah*.

[1210] *qass* is one of the Christian *ʿulamā'*, worshippers and one of their leaders. The root of the word is to do with following something and seeking it out, and from that an *ʿālim* was thus named because of his following knowledge.

[1211] *ʿahd* here is covenant.

[1212] "Because of your denial of the decree."

[1213] A viscous fluid.

[1214] A morsel of flesh as much as can be chewed.

[1215] Al-Bukhārī narrated it under "the beginning of creation" in the chapter on "mention of the angels," and under "the Decree" in the chapter on "how the human being was created."

MARRIAGE

بَابُ مَا يَحِلُّ لِلرَّجُلِ الْحُرِّ مِنَ التَّزْوِيجِ

114. WHAT MARRIAGE IS PERMITTED TO A FREE MAN

٣٩٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا قَيْسُ بْنُ مُسْلِمٍ الْجَدَلِيُّ عَنِ الْحَسَنِ بْنِ مُحَمَّدِ بْنِ عَلِيِّ بْنِ أَبِي طَالِبٍ رَحِمَهُ اللَّهُ فِي قَوْلِ اللَّهِ : ﴿ وَالْمُحْصَنَاتُ مِنَ النِّسَاءِ إِلَّا مَا مَلَكَتْ أَيْمَانُكُمْ ﴾ قَالَ : كَانَ يَقُولُ : ﴿ فَانْكِحُوا مَا طَابَ لَكُمْ مِنَ النِّسَاءِ مَثْنَى وَثُلَاثَ وَرُبَاعَ ﴾ قَالَ : أُحِلَّ لَكُمْ أَرْبَعٌ ، وَحُرِّمَتْ عَلَيْكُمْ أُمَّهَاتُكُمْ إِلَى آخِرِ الْآيَةِ ، قَالَ : حُرِّمَتْ عَلَيْكُمُ الْمُحْصَنَاتُ إِلَّا مَا مَلَكَتْ أَيْمَانُكُمْ بَعْدَ الْأَرْبَعِ .

390. Muḥammad said, "Abū Ḥanīfah informed us saying, 'Qays ibn Muslim al-Jadalī narrated to us from al-Ḥasan ibn Muḥammad ibn ʿAlī ibn Abī Ṭālib ﵁ concerning the words of Allah, "*And also married women,*[1216] *except for those you have taken in war as slaves*" (Sūrat an-Nisā': 24) that he said, "He used to say, '... *then marry other permissible women, two, three or four*' and he said, 'Four are permitted to you, and "*Ḥarām for you are: your mothers* ..." to the end of the *āyah* (Sūrat an-Nisā': 23).' He said, 'Married women are fobidden for you except for those you have taken in war as slaves,[1217] besides the four.'"'"

٣٩١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا نَكَحَ الرَّجُلُ الأَمَةَ عَلَى الْحُرَّةِ فَنِكَاحُ الأَمَةِ فَاسِدٌ ، وَإِذَا نَكَحَ الْحُرَّةَ عَلَى الأَمَةِ أَمْسَكَهُمَا جَمِيعًا ، وَيَقْسِمُ لِلْحُرَّةِ لَيْلَتَيْنِ ، وَلِلأَمَةِ لَيْلَةً .

391. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man weds a slave woman when already married to a free woman, then the marriage to the slave woman is invalid,[1218] but if he marries a free woman when already married to a slave woman then he retains both of them, and he appoints two nights to the free woman and a single night to the slave woman.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٣٩٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : لِلْحُرِّ أَنْ يَتَزَوَّجَ أَرْبَعَ مَمْلُوكَاتٍ ، وَثَلاثًا ، وَاثْنَتَيْنِ ، وَوَاحِدَةً .

392. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘A free man may marry four slave women,[1219] or three, two or one.’”[1220]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، لَهُ أَنْ يَتَزَوَّجَ مِن الإِمَاءِ مَا يَتَزَوَّجُ مِن الْحَرَائِرِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. He may marry the same number of slave women as the number of free women he is able to marry,[1221] and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ مَا يَحِلُّ لِلْعَبْدِ مِنَ التَّزْوِيجِ

115. WHO A SLAVE IS PERMITTED TO MARRY

٣٩٣- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : لَيْسَ لِلْعَبْدِ أَنْ يَتَزَوَّجَ إِلَّا حُرَّتَيْنِ أَوْ مَمْلُوكَتَيْنِ .

393. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘A slave may only marry two free women or two slave women.’”[1222]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٣٩٤- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : لَا يَحِلُّ لِلْعَبْدِ أَنْ يَتَسَرَّى ، وَلَا يَحِلُّ لَهُ فَرْجٌ إِلَّا بِنِكَاحٍ يُزَوِّجُهُ مَوْلَاهُ .

394. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘A slave is not permitted to keep slave girls,[1223] and intercourse is only permitted him in a marriage which his master expedites.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٣٩٥- مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا إِسْمَاعِيلُ بْنُ أُمَيَّةَ الْمَكِّيُّ عَنْ سَعِيدِ بْنِ أَبِي سَعِيدٍ الْمَقْبُرِيِّ عَنِ ابْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا قَالَ : لَا يَحِلُّ فَرْجٌ مِن الْمَمْلُوكَاتِ إِلَّا مِن ابْتَاعَ ، أَوْ وُهِبَ ، أَوْ تُصُدِّقَ ، أَوْ أُعْتِقَ جَازَ ، يَعْنِي بِذَلِكَ الْمَمْلُوكَ.

395. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ismāʿīl ibn Umayyah al-Makkī narrated to us from Saʿīd ibn Abī Saʿīd al-Maqburī that Ibn ʿUmar ﵄ said, “No one is permitted to have sexual intercourse with a slave woman except the purchaser,[1224] someone who is given [a slave woman] as a gift or as a *ṣadaqah*, or if he is set free; then it is permitted, meaning by that[1225] the slave.”’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، يَعْنِي أَنَّ الْمَمْلُوكَ لَا يَحِلُّ لَهُ فَرْجٌ إِلَّا بِنِكَاحٍ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, “We adhere to this. It means that the slave is only permitted sexual intercourse in marriage, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٣٩٦- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : لَا يَصْلُحُ لِلْعَبْدِ أَنْ يَتَسَرَّى ، ثُمَّ تَلَا هذِهِ الآيَةَ : ﴿إِلَّا عَلَى أَزْوَاجِهِمْ أَوْ مَا مَلَكَتْ أَيْمَانُهُمْ﴾ ، فَلَيْسَتْ لَهُ بِزَوْجَةٍ وَلَا مِلْكِ يَمِينٍ.

396. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘It is not permitted for a slave to take a concubine,’[1226] and then he read this *āyah*, “*... except from their wives or those they own as slaves*” (Sūrat al-Mu’minūn: 6[1227] and Sūrat al-Maʿārij: 30) and she is not his wife nor his property.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٣٩٧- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي العَبْدِ : إِذَا زَوَّجَه مَوْلَاهُ؛ فَالطَّلَاقُ بِيَدِ الْعَبْدِ ، وَإِذَا تَزَوَّجَ الْعَبْدُ بِغَيْرِ إِذْنِ مَوْلَاهُ فَالطَّلَاقُ بِيَدِ مَوْلَاهُ، وَيَأْخُذُ مِن الْمَرْأَةِ مَا أَخَذَتْ مِن عَبْدِه .

397. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said that when a master marries his slave to someone, the slave has the right to divorce, but if a slave marries without his master’s permission,[1228] the master has the right to declare the divorce and to take back from the woman what she accepted from his slave.”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٣٩٨- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا تَزَوَّجَ الْعَبْدُ بِغَيْرِ إِذْنِ مَوْلَاهُ فَنِكَاحُه فَاسِدٌ ، وَإِنْ أَذِنَ لَهُ بَعْدَ مَا تَزَوَّجَ فَنِكَاحُه ثَابِتٌ .

398. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a slave marries without his master’s permission, his marriage is invalid, but if he [the master] gives permission after he had already married, his marriage is valid.’”[1229]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَإِنَّمَا يَعْنِي بِقَوْلِه : إِنْ أَذِنَ لَهُ بَعْدَ مَا تَزَوَّجَ يَقُولُ : إِنْ أَجَازَ مَا صَنَعَ فَهُوَ جَائِزٌ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. What he meant by his saying, ‘if he gives permission after he had already married’ is that he is really saying that if he endorses what the slave had already done, it is valid, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ الرَّجُلِ يُزَوِّجُ أُمَّ وَلَدِهِ

116. A MAN WHO MARRIES AWAY HIS *UMM WALAD*[1230]

٣٩٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : وَلَدُ أُمِّ الْوَلَدِ من غَيْرِ سَيِّدِهَا إِذَا وَلَدَتْهُ وَهِيَ أُمُّ وَلَدٍ بِمَنْزِلَتِهَا .

399. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If an *umm walad* gives birth to a child[1231] to someone other than her master while [she is] still an *umm walad*, then he is of the same status as her.[1232]’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٤٠٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يُزَوِّجُ أُمَّ وَلَدِهِ عَبْدًا فَتَلِدُ أَوْلَادًا ثُمَّ يَمُوتُ قَالَ : هِيَ حُرَّةٌ ، وَأَوْلَادُهَا أَحْرَارٌ ، وَهِيَ بِالْخِيَارِ ، إِنْ شَاءَتْ كَانَتْ مَعَ الْعَبْدِ ، وَإِنْ شَاءَتْ لَمْ تَكُنْ .

400. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm spoke concerning a man who marries his *umm walad* to a slave and she gives birth to children and then [the master] dies, and said, ‘She is free and her children are free, and she has the choice:[1233] if she wishes, she remains with the slave and if she wishes, she does not.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى ، وَلَهَا الْخِيَارُ أَيْضًا وَإِنْ كَانَتْ تَحْتَ حُرٍّ .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him. She also has the choice if she has been married to a free man.”

◈

بَابُ الرَّجُلِ يَتَزَوَّجُ وَبِهِ الْعَيْبُ ، وَالْمَرْأَةِ

117. A PERSON, MALE OR FEMALE, WHO MARRIES HAVING A DEFECT

٤٠١ – مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ أَنَّهُ قَالَ فِي
الرَّجُلِ يَتَزَوَّجُ وَهُوَ صَحِيحٌ أَوْ يَتَزَوَّجُ وَبِهِ بَلَاءٌ : لَمْ تُخَيَّرْ امْرَأَتُه وَلَا أَهْلُهَا ، إِنَّهَا امْرَأَتُه
أَبَدًا ، لا يُجْبَرُ عَلَى طَلَاقِهَا . قَالَ : وَإِنْ تَزَوَّجَهَا وَهِيَ هكَذَا فَهِيَ بِتِلْكَ الْمَنْزِلَةِ .

401. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us that Ibrāhīm said concerning a man who marries while healthy or who marries while suffering an affliction, “[if he is afflicted] his wife is not given the choice [of her freedom] nor her family. She is his wife forever and he is not compelled to divorce her.” He said, “If he marries her and she is thus,[1234] then she has the same standing.”’”[1235]

قَالَ مُحَمَّدٌ : وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى ، وَأَمَّا فِي قَوْلِنَا فَإِنْ كَانَتِ الْمَرْأَةُ بِهَا
الْعَيْبُ فَالْقَوْلُ مَا قَالَ أَبُو حَنِيفَةَ ، وَإِنْ كَانَ الرَّجُلُ بِهِ الْعَيْبُ ، فَكَانَ عَيْبًا يُحْتَمَلُ فَالْقَوْلُ
عِنْدَنَا مَا قَالَهُ أَبُو حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى ، وَإِنْ كَانَ عَيْبًا لَا يُحْتَمَلُ فَهُوَ بِمَنْزِلَةِ الْمَجْبُوبِ
وَالْعِنِّينِ ، تُخَيَّرُ امْرَأَتُه ، فَإِنْ شَاءَتْ أَقَامَتْ مَعَهُ ، وَإِنْ شَاءَتْ فَارَقَتْهُ .

Muḥammad said, “That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him. But our verdict is that if the wife has a defect, then the verdict is that of Abū Ḥanīfah. If the man is the one with the defect but the defect is bearable then the verdict is as Abū Ḥanīfah said, but if the defect is unbearable[1236] then he is in the position of someone who is completely castrated[1237] or an impotent person,[1238] and his wife is given the choice [of her freedom]. So if she wishes she can stay with him, and if she wishes she can separate from him.”

٤٠٢– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يَتَزَوَّجُ الْمَرْأَةَ
وَبِهَا عَيْبٌ أَوْدَاءٌ : إِنَّهَا امْرَأَتُه ، طَلَّقَ أَوْ أَمْسَكَ : وَلَا تَكُونُ فِي هَذَا بِمَنْزِلَةِ الإِمَاءِ أَنْ
يَرُدَّهَا من عَيْبٍ، وقَالَ : أَرَأَيْتَ لَوْ كَانَ بِالرَّجُلِ عَيْبٌ أَكَانَ لَهَا أَنْ تَرُدَّه ؟

402. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who marries a woman who has a defect or an illness, ‘She is his wife whom he may divorce or retain. She is not in this case in the same position as slave women whom he may return because of a defect.’ He said, ‘Do you think that if the man had a defect, she should be able to return him?’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، لِأَنَّ الطَّلَاقَ بِيَدِ الزَّوْجِ ، إِنْ شَاءَ طَلَّقَ ، وَإِنْ شَاءَ أَمْسَكَ .
أَلَا تَرَى أَنَّهُ لَوْ وَجَدَهَا رَتْقَاءَ لَمْ يَكُنْ لَهُ خِيَارٌ، لِأَنَّ الطَّلَاقَ بِيَدِه، وَلَوْ وَجَدَتْهُ مَجْبُوبًا
كَانَ لَهَا الْخِيَارُ، لِأَنَّ الطَّلَاقَ لَيْسَ بِيَدِهَا وَكَذلِكَ إِذَا وَجَدَتْهُ مَجْنُونًا مُوَسْوَسًا يُخَافُ
عَلَيْهَا قَتْلُه ، أَوْ وَجَدَتْه مَجْذُومًا ، مُنقَطِعًا لَا تَقْدِرُ عَلَى الدُّنُوِّ مِنْهُ، وَأَشْبَاهُ هَذَا من
الْعُيُوبِ الَّتِي لَا تُحْتَمَلُ فَهَذَا أَشَدُّ من الْعِنِّينَ وَالْمَجْبُوبِ وَقَدْ جَاءَ فِي الْعِنِّينَ أَنَّ عُمَرَ بْنَ
الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ قَالَ : إِنَّهَا تُؤَجَّلُ سَنَةً ثُمَّ تُخَيَّرُ، وَجَاءَ أَيْضًا فِي الْمُوَسْوَسِ أَثَرٌ
عَنْ عُمَرَ بْنِ الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ ، أَنَّهُ أَجَّلَهَا ثُمَّ خَيَّرَهَا ، وَكَذلِكَ الْعُيُوبُ الَّتِي لَا
تُحْتَمَلُ هِيَ أَشَدُّ من الْمَجْبُوبِ وَالْعِنِّينِ.

Muḥammad said, “We adhere to this because divorce is in the hands of the husband, and if he wishes he may divorce and if he wishes he may retain her. Do you not see that if he had discovered her to be physically incapable of intercourse[1239] he would not have the choice [of returning her] since divorce is in his hands. However, if she had discovered him to be completely castrated, she would have the choice [of her freedom] since divorce is not in her hands. It would be similar if she had discovered him to be mad and subject to insane promptings[1240] and one feared for her sake lest he kill her, or if she had discovered him to have leprosy (*judhām*)[1241] to such a degree that he was losing bodily parts and she was unable to approach him, and other similar cases of unbearable defects, then all of these are more serious than impotence and castration, and it has been narrated concerning impotence that ʿUmar ibn al-Khaṭṭāb ﵁ said, 'She is set the term of a year and then she is given the choice [of her freedom].' It has also been narrated from ʿUmar ibn al-Khaṭṭāb ﵁ concerning the person subject to insane promptings that he set a time for her and then later gave her the choice [of her freedom]. It is similar with defects that are unbearable; they are worse than castration and impotence."

403. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who marries a woman and discovers that she has *judhām* leprosy or leuce leprosy,[1242] 'She is his wife, and if he wishes he may divorce her or if he wishes he may retain her.'"

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ؛ لِأَنَّ الطَّلَاقَ بِيَدِهِ .

Muḥammad said, "We adhere to this since divorce is in his hands."

◆

بَابُ مَا نُهِيَ عَنْهُ مِنَ التَّزْوِيجِ وَاسْتِيمَارِ الْبِكْرِ

118. WHAT MARRIAGE IS FORBIDDEN, AND CONSULTING A VIRGIN

٤٠٤- مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى قَالَ : حَدَّثَنَا عَبْدُ الْمَلِكِ بْنُ عُمَيْرٍ عَنْ رَجُلٍ مِن أَهْلِ الشَّامِ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ : أَتَاهُ رَجُلٌ فَقَالَ : يَا رَسُولَ اللَّهِ! أَتَزَوَّجُ فُلَانَةَ ؟ فَنَهَاهُ عَنْهَا ، ثُمَّ أَتَاهُ ثَلَاثَ مَرَّاتٍ ، فَنَهَاهُ ، ثُمَّ قَالَ رَسُولُ اللَّهِ صلى الله عَلَيْهِ وَسَلَّمَ: سَوْدَاءُ وَلُودٌ أَحَبُّ إِلَيَّ من حَسَنَاءَ عَاقِرٍ ، إِنِّي مُكَاثِرٌ بِكُمُ الْأُمَمَ ، حَتَّى إِنَّ السِّقْطَ- يَظَلُّ مُحْبَنْطِئاً يُقَالَ لَهُ : اُدْخُلِ الْجَنَّةَ ، فَيَقُولُ: لَا حَتَّى يَدْخُلَ أَبَوَايَ .

404. Muḥammad said, “Abū Ḥanīfah, may Allah, exalted is He, have mercy on him, informed us saying, ‘ʿAbd al-Malik ibn ʿUmayr narrated to us from one of the men[1243] of Shām from the Prophet ﷺ saying, “A man came to him[1244] and said, ‘Messenger of Allah, should I marry so-and-so?’ And he forbade him to do so. Later he came to him three times, but he forbade him and then he said, ‘A prolifically fertile black woman is preferable to me over a sterile[1245] but extremely beautiful woman. I want to contend[1246] with the other nations in terms of your plentiful numbers. Even the miscarried child[1247] will continue to be angry[1248] when it is said to him, “Enter the Garden!” and so he will say, “No! not until my parents enter.”’””[1249]

٤٠٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : لَا تُنْكَحُ الْبِكْرُ حَتَّى تُسْتَأْمَرَ، وَرِضَاؤُهَا سُكُوتُهَا ، وَقَالَ : وَهِيَ أَعْلَمُ بِنَفْسِهَا ، لَعَلَّ بِهَا عَيْبًا لا يَسْتَطِيعُ لَهَا الرِّجَالُ مَعَهُ .

405. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘A virgin is not to be married until her consent is sought,[1250] and [the sign of] her agreement is her silence.’ He said, ‘She knows herself best; perhaps she may have a defect so that men may not be able to endure her along with it.’”

Muḥammad said, “We adhere to this. We do not think that a virgin who has reached puberty should be married without her consent, whether her parent or anyone else marries her off, and [the sign of] her agreement is her silence. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

119. SOMEONE WHO MARRIES WITHOUT SETTING AN AMOUNT OF HIS WIFE’S DOWRY BEFORE HE DIES

406. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm from ʿAbdullāh ibn Masʿūd رضي الله عنه that someone came to him and asked him about a man who married a woman without setting a dowry[1251] for her, and without consummating the marriage before dying. He said, ‘Nothing has reached me about this from the Messenger of Allah ﷺ.’ He said, ‘So speak about it according to your own view.’ He said, ‘I think that she should receive the full dowry,[1252] that she inherits and that she has to observe the ʿ*iddah* period [for a widow].’ One of those men who sat with him said, ‘You have passed judgement – by the One by Whom oaths are sworn![1253] – with the ruling of the Messenger of Allah ﷺ in [the case of] Birwaʿ[1254] bint Wāshiq al-Ashjaʿiyyah.’” He said, “ʿAbdullāh ibn Masʿūd رضي الله عنه rejoiced to such an extent as he had never done before because of the concordance of his view with the verdict of the Messenger of Allah ﷺ.”[1255]

Muḥammad said, “We adhere to this. The inheritance and ʿ*iddah* period are not obligatory until there has been a dowry before that, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

قَالَ مُحَمَّدٌ : وَالرَّجُلُ الَّذِي قَالَ لِعَبْدِ اللَّهِ بْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ مَا قَالَ مَعْقِلُ بْنُ يَسَارِ الأَشْجَعِيِّ رَضِيَ الله عَنْه ، وَكَانَ من أَصْحَابِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ .

Muḥammad said, “The man who said what he said to ʿAbdullāh ibn Masʿūd رضي الله عنه was Maʿqil ibn Yasār al-Ashjaʿī[1256] رضي الله عنه who was one of the Companions of the Messenger of Allah ﷺ.”

بَابُ مَنْ تَزَوَّجَ امْرَأَةً فِي عِدَّتِهَا ثُمَّ طَلَّقَهَا

120. SOMEONE WHO MARRIES A WOMAN DURING HER ʿ*IDDAH* AND THEN LATER DIVORCES HER

٤٠٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يَتَزَوَّجُ الْمَرْأَةَ فِي عِدَّتِهَا ثُمَّ يُطَلِّقُهَا قَالَ : لَا يَقَعُ عَلَيْهَا طَلَاقُه ، وَإِنْ قَذَفَهَا لَمْ يُجْلَدْ ، وَلَمْ يُلَاعَنْ .

407. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who marries a woman during her ʿ*iddah*, ‘His divorcing her does not affect her,[1257] and if he accuses her of sexual impropriety he is not to be flogged[1258] and does not have to declare the *liʿān*[1259] type of divorce.’”[1260]

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

408. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a woman who married during her ʿ*iddah* and gave birth, ‘If the former [husband] lays claim to it, it is his child. If the former repudiates it and the other [husband] lays claim to it then it is his [the

latter’s] child. If they are both in doubt, it is the child of both of them and inherits from both of them and they both inherit from it.’”

Muḥammad said, “We do not adhere to this, but rather we think that if he divorces her and someone else marries her during her ʿ*iddah* and consummates the marriage with her, that if she then gives birth to a child anything up to two years after the latter’s consummation of the marriage then it is the child of the first husband, but if the birth is more than two years later then it is the child of the other.” He said, “Abū Ḥanīfah also used to give a similar verdict to that concerning a final (*bā’in*[1261]) divorce.”

409. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿAlī ibn Abī Ṭālib said concerning a woman who marries during her ʿ*iddah*, ‘She and her second husband are separated and she has a dowry inasmuch as he consummated the marriage[1262] and she must complete what remains of her ʿ*iddah* from the former, and then observe a second independent ʿ*iddah* from the other husband. Then the other may marry her if he wishes.’”[1263]

Muḥammad said, “We adhere to all of this except that we say that she completes her ʿ*iddah* from the first and calculates[1264] what amount of time has passed of the ʿ*iddah* from the other in her completing the ʿ*iddah* from the first and then she observes what remains of the ʿ*iddah* from the other husband.” [See next hadith]

410. Muḥammad said, “Saʿīd ibn Abī ʿArūbah informed us from Abū Maʿshar[1265] from Ibrāhīm an-Nakhaʿī who said, ‘If one ʿ*iddah* enters into another then they are a single ʿ*iddah*,’ and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

Muḥammad said, “We adhere to this, and it is the clarification of our verdict in the first hadith.”

◆

121. WHAT HAPPENS IF EACH OF TWO WOMEN IS MADE TO GO INTO [WHERE] THE OTHER WOMAN’S HUSBAND IS

411. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If each of two women is made to go into [where] the brother of her husband is, each of the two being made love to,[1266] then each one of them is returned to her husband and she has a dowry inasmuch as the union was consummated, and her husband may not approach her until her *ʿiddah* expires.’”

Muḥammad said, “We adhere to all of this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

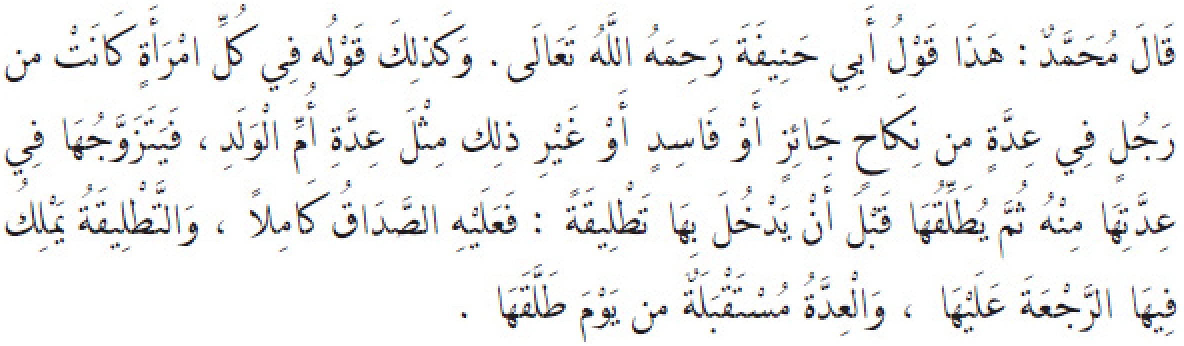
122. SOMEONE WHO MARRIES A WOMAN WHO WAS DIVORCED AT HER OWN REQUEST FOR SOME COMPENSATION PAID BY HER (*KHULʿ*) OR WHO WAS DIVORCED

412. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘The husband of the woman whom he divorces by taking an oath to abstain from sexual intercourse for more than four months (*īlā’*) and his sticking to that oath, and of the woman divorced at her own request for some compensation paid by her (*khulʿ*) may not take her back except in a

new marriage. If either of them dies, the other does not inherit, because the divorce was final.[1267] However, he [may] divorce as long as she is still within the ʿ*iddah*.’”[1268]

Muḥammad said, “We adhere to all of this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

413. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man marries[1269] [his] wife who was previously divorced at her own request for a compensation that she paid, or [marries] a woman whom he divorced having sworn an oath to deliberately abstain from sexual intercourse for more than four months, or [marries] a [slave] woman he set free,[1270] during her ʿ*iddah*, and then divorces her before consummating the marriage, she [in all these cases] is owed the dowry.’”



قَالَ مُحَمَّدٌ : هَذَا قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللّٰهُ تَعَالَى . وَكَذٰلِكَ قَوْلُه فِي كُلِّ امْرَأَةٍ كَانَتْ مِن رَجُلٍ فِي عِدَّةٍ مِن نِكَاحٍ جَائِزٍ أَوْ فَاسِدٍ أَوْ غَيْرِ ذٰلِكَ مِثْلِ عِدَّةِ أُمِّ الْوَلَدِ ، فَيَتَزَوَّجُهَا فِي عِدَّتِهَا مِنْهُ ثُمَّ يُطَلِّقُهَا قَبْلَ أَنْ يَدْخُلَ بِهَا تَطْلِيقَةً : فَعَلَيْهِ الصَّدَاقُ كَامِلاً ، وَالتَّطْلِيقَةُ يَمْلِكُ فِيهَا الرَّجْعَةَ عَلَيْهَا ، وَالْعِدَّةُ مُسْتَقْبَلَةٌ مِن يَوْمِ طَلَّقَهَا .

Muḥammad said, “That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him. His verdict was the same with respect to every woman who was observing an ʿ*iddah* in her divorce from a man in a valid or an invalid marriage or in other cases such as the ʿ*iddah* of the *umm walad*, and then someone marries her during her ʿ*iddah* from him and then divorces her before consummating the marriage, that he has to pay the complete dowry. The divorce is such that he possesses the right to take her back and the ʿ*iddah* commences from the day on which he divorces her.”

Muḥammad said, “We do not adhere to this, but [we think] if he divorces her before consummating the marriage with her, he owes her half of the dowry,[1271] and he does not possess the right to take her back and she completes what remains of her ʿ*iddah* [from her former husband]. That is the verdict of al-Ḥasan al-Baṣrī, ʿAṭā’ ibn Abī Rabāḥ, the people of the Ḥijāz, and some of them also narrated it of ash-Shaʿbī.”

◆

123. WHOEVER MARRIES A JEWISH OR CHRISTIAN WOMAN, SHE DOES NOT CONFER THE STATUS OF BEING *MUḤṢAN*[1272]

414. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘There is no harm in marrying a Jewish or Christian woman when already married to a free woman.’”

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

415. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm from Ḥudhayfah ibn al-Yamān ؓ that he married a Jewish woman in Madā’in, and so ʿUmar ibn al-Khaṭṭāb wrote to him, ‘Let her go.’ He wrote back to him, ‘Is she forbidden, Amīr al-Mu’minin?’ He wrote to him, ‘I stress the great urgency in your[1273] not putting down my letter before letting her go, because I fear that the Muslims will model themselves on you, and so choose the women of the people of the *dhimmah* contract because of their beauty, and that is sufficient as a trial for Muslim women.’”

Muḥammad said, “We adhere to this. We do not think[1274] that it is forbidden, but we think that one should choose Muslim women in preference to them and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

416. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm who said “A Muslim is not made *muḥṣan*[1275] by [marriage to] a Jewish woman nor a Christian woman. He is only made *muḥṣan* by [marriage to] a free Muslim woman.”’”

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

124. SOMEONE WHO MARRIES WHILE ASSOCIATING PARTNERS WITH ALLAH AND THEN LATER ACCEPTS ISLAM

417. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a person who marries while associating partners with Allah and consummates the marriage with his wife, and then accepts Islam after that, and then later commits adultery, that he is not to be stoned until he is rendered *muḥṣan*[1276] by marriage to a Muslim woman.”

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

418. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a couple are Jews or Christians and the husband accepts Islam, their marriage is still valid[1277] whether the woman accepts Islam or not. If the wife becomes a Muslim [but not the husband], Islam is to be offered to the husband, and if he accepts Islam he may retain her within his original marriage, but if he refuses to accept Islam, they are separated. If the couple are Zoroastrians, and either one of them accepts Islam then the other

is to be offered Islam, and if he or she accepts Islam, their original marriage is still valid, but if he or she refuses to accept Islam, then they are separated.’”

Muḥammad said, “We adhere to all of this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

419. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm was asked about a Jew and a Jewess who accept Islam, or a Christian man and woman, and he said, ‘They remain in their original marriage, and Islam only will increase them in good.’”

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

420. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man accepts Islam before consummating marriage with a woman who is a Zoroastrian, then Islam is offered to her. If she accepts, she is his wife. However, if she refuses to accept Islam they are separated, and she has no dowry[1278] since the separation was because of her. If she accepts Islam before her husband and he had not yet consummated the marriage with her then Islam is offered to the husband. If he accepts Islam, she is his wife. However, if he refuses, they are separated and it is a final divorce[1279] and she has a half of the dowry.’”

Muḥammad said, “We adhere to all of this and it is the verdict of Abū Ḥanīfah. If the separation comes from the husband, it is a divorce and she has a half of the dowry since he was the one who refused Islam. However, if it is the woman who refused Islam, the separation comes from her and she has nothing of the dowry and her separation is not a divorce.”

421. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If the separation comes from the man it is divorce, but if it comes from the woman it is not divorce. If he had consummated the marriage with her, she has the full dowry. However, had he not consummated the marriage with her, she has no dowry, if the separation comes from her.’”

Muḥammad said, “We adhere to all of this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him, except in one respect, because Abū Ḥanīfah[1280] said, ‘If the husband reneges on Islam, the woman becomes finally separated from him but that is not a divorce,’[1281] but in our verdict it is a divorce,[1282] and that is the verdict of Ibrāhīm.”

125. A MAN MARRIES A SLAVE WOMAN AND THEN PURCHASES HER OR SHE IS SET FREE

422. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who marries a slave woman[1283] and then divorces her one time and then purchases her,[1284] ‘He may have sexual intercourse with her. If he[1285] sets her free he[1286] is allowed to marry her. If he divorces her twice[1287] and then later purchases her, she is not permissible to him until she marries a husband other than him [who consummates the marriage and subsequently divorces her].’”

Muḥammad said, “We adhere to all of this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٤٢٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ إِذَا طَلَّقَ الْحُرُّ الأَمَةَ تَحْتَه فَإِنَّهَا تَبِينُ بِتَطْلِيقَتَيْنِ ، وَعِدَّتُهَا حَيْضَتَانِ إِنْ كَانَتْ تَحِيضُ ، فَإِنْ لَمْ تَكُنْ تَحِيضُ فَشَهْرٌ وَنِصْفٌ ، وَلَا تَحِلُّ لَهُ حَتَّى تَنْكِحَ زَوْجًا غَيْرَه . وَإِنْ طَلَّقَ الْعَبْدُ امْرَأَتَه وَهِيَ حُرَّةٌ بَانَتْ مِنْهُ بِثَلَاثٍ مِنْهُ ، وَعِدَّتُهَا ثَلَاثُ حِيَضٍ إِنْ كَانَتْ تَحِيضُ ، فَإِنْ لَمْ تَكُنْ تَحِيضُ فَعِدَّتُهَا ثَلَاثَةُ أَشْهُرٍ .

423. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said that if a free man divorces a slave woman she becomes finally divorced[1288] by two divorces[1289] and her ʿ*iddah* is two menstrual periods if she is menstruating, but if she is not menstruating, then it is a month and a half, and she is not permissible to him until she has married another husband [who consummates the marriage and subsequently divorces her]. If a slave divorces his wife and she is a free woman she becomes finally separated from him by three [divorces] and her ʿ*iddah* is three menstrual periods if she has a menstrual period, but if she does not have a menstrual period then her ʿ*iddah* is three months.”[1290]

image

Muḥammad said, “We adhere to all of this. Divorce is according to the women and the ʿ*iddah* is according to the women. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

image

424. Muḥammad said, “Ibrāhīm ibn Yazīd al-Makkī informed us saying, ‘I heard ʿAṭā’ ibn Abī Rabāḥ say, “ʿAlī ibn Abī Ṭālib ﵁ said, ‘Divorce is according to the women as is the ʿ*iddah*.’”’”

image

“We adhere to this. We say that if the wife is a free woman then her divorce is three divorces and her ʿiddah is three menstruations whether her husband is free or a slave. If she is a slave woman her divorce is twice and her ʿiddah is two menstrual periods whether her husband is free or a slave.”

425. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm spoke concerning a man who marries a slave woman who is subsequently set free. He said, ‘She is given the choice, and if she chooses her husband then she is his wife. However, if she chooses herself, he has no way to her. If he dies and she had chosen him, then her ʿ*iddah* is four months and ten days[1291] and she inherits. However, if he dies and she had chosen herself, then her ʿ*iddah* is three menstruations[1292] and she has no inheritance.’”[1293]

Muḥammad said, “We adhere to all of this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

426. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a slave woman is set free and she has a husband, then she is given the choice. If she chooses her husband, they remain in their marriage. If he had consummated the marriage, she has the dowry for her master.[1294] If she chooses her self and he had not consummated the marriage, they are separated, and neither she nor her master have a dowry since the separation comes from her. Her separation is not a divorce and she is allowed to marry on the spot if she wishes.’”

Muḥammad said, “We adhere to all of this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

427. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a slave woman whose husband dies and then she is set free during her ʿ*iddah*, ‘She observes the ʿ*iddah* of a slave woman and she does not inherit. If he divorced her twice[1295] and then she was set free, she observes the ʿ*iddah* of a slave woman.’”[1296]

Muḥammad said, “We adhere to all of this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

428. Muḥammad and Asad said, “Abū Ḥanīfah informed us from Salamah ibn Kuhayl from al-Mustawrid ibn al-Aḥnaf from ʿAbdullāh ibn Masʿūd that a man came to him and said, ‘I married a slave woman belonging to my paternal uncle and she bore me a daughter, and now my uncle wants to sell her.’ He said, ‘He lies. He has no right to do that.’”

Muḥammad said, “We adhere to this. He does not have the right to sell. Whoever owns[1297] a near relative[1298] who is forbidden to him in marriage,[1299] then he is free.”[1300]

429. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘When a slave woman is divorced by her husband with a divorce in which he retains the right to take her back and she is subsequently set free, her ʿ*iddah* is that of a freewoman. But if the husband did not have the right to take her back and she is set free, her ʿ*iddah* is that of a slave woman.’”

Muḥammad said, “We adhere to all of this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

126. SOMEONE MARRIES AND THEN EITHER OF THE COUPLE COMMITS ADULTERY

430. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿAlī ibn Abī Ṭālib said, ‘If a man married a woman but had

not yet consummated the marriage when he subsequently committed adultery, he is to be flogged[1301] and he retains his wife. If she committed adultery and he had not yet consummated the marriage so that the *ḥadd*[1302] punishment be inflicted on her,[1303] they are separated.’”

Muḥammad said, “As for the verdict of Abū Ḥanīfah and what people in general hold to, she is his wife in every case. If he wishes he may divorce her and if he wishes he may retain her, and that is our verdict.”

431. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘A man came to ʿAlqamah ibn Qays and said, “Can a man who fornicated with a woman marry her?” He said, “Yes,” and then he recited this *āyah*, “*It is He who accepts tawbah from His slaves and pardons evil acts and knows what you do*” (Sūrat ash-Shūrā: 23).’”[1304]

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

127. TEMPORARY (*MUTʿAH*)[1305] MARRIAGE

432. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿAbdullāh ibn Masʿūd رضي الله عنه said concerning temporary (*mutʿah*) marriage to women, ‘It was only granted as a concession to the Companions of Muḥammad ﷺ when during some of their military expeditions they complained to him about their celibacy.[1306] Subsequently it was abrogated by the *āyah* on marriage, inheritance and the dowry.’”[1307]

433. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Nāfiʿ narrated to us that Ibn ʿUmar ؓ said, “On the year of the military expedition against Khaybar, the Messenger of Allah ﷺ forbade the meat of domestic donkeys and temporary marriages to women, and we were not fornicators.”’”[1308]

image

434. Muḥammad said, “Abū Ḥanīfah informed us from Ibn Shihāb az-Zuhrī from Muḥammad ibn ʿUbaydullāh from Saborah al-Juhanī from the Prophet ﷺ that on the day of the Opening of Makkah [to Islam][1309] he forbade temporary marriage with women.”[1310]

image

435. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Yunus narrated the like of that to us from Rabīʿ ibn Sabirah al-Juhanī from his father ؓ from the Prophet ﷺ concerning temporary marriage to women.’”[1311] [1312]

image

Muḥammad said, “We adhere to all of this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

image

128. WHAT MARRIAGE IS FORBIDDEN TO MEN

image

436. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Al-Ḥakam ibn ʿUtaybah narrated to us from ʿIrāk ibn Mālik that Aflaḥ ibn Abī Quʿays[1313] sought permission to visit ʿĀ’ishah image and she veiled herself from him.[1314] He said, “Do you veil yourself from me when I am your paternal uncle[1315]?” She said, “From where?[1316]” He said, “You were suckled[1317] by the milk [of the wife] of my brother.” When the Prophet ﷺ came to visit,

she mentioned that to him and he said, “That which is unmarriageable[1318] because of blood relationship is also unmarriageable because of suckling.”’”[1319]

Muḥammad said, “We adhere to all of this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

437.[1320] Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ibrāhīm ibn Muḥammad ibn al-Muntashir narrated to us from his father from Masrūq who said, “Sell this slave girl of mine. As for me, I did nothing with her but that fondling or looking which would make her unmarriageable to my own son.”’”

Muḥammad said, “We adhere to this, except that we do not regard looking as anything significant unless he looked at her pudendum with sexual appetite. If he had looked at it with sexual appetite she would become *ḥarām* to his father and to his son, and her mother and daughter would become unmarriageable to him, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

438. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm who said, ‘If a man kisses his mother-in-law or touches her with appetite his wife becomes *ḥarām* for him.’”

Muḥammad said, “We adhere to this, and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

129. THE MARRIAGE OF AN INEBRIATED PERSON

439. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning the inebriated person who marries, ‘Everything which he does is legally binding upon him.’”

Muḥammad said, “We adhere to this except in one respect: if his intellect was absent because of drunkenness and he reneged[1321] on Islam and then later recovered from his drunkenness and remembered that that had issued from him unconsciously, then that is accepted from him, and his wife is not finally divorced from him. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

130. MARRYING A WOMAN AND FINDING THAT SHE IS NOT A VIRGIN

440. Muḥammad said, “Abū Ḥanīfah informed us from al-Haytham ibn Abī’l-Haytham from ʿĀ’ishah that she married a freed slave girl of hers to a man who found her not to be a virgin. The man went out because of that, grieving so intensely that it was seen in his face. It was brought to the attention of ʿĀ’ishah and she said, ‘What has he to grieve over? Virginity can be taken away by menstruation or a finger or *wuḍū’* or a leap.’”

441. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man says about a woman whom he had married, “I did

not find her a virgin,” then there is no punishment [for slander][1322] to be imposed on him.’”

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

131. MARRIAGE OF EQUALS AND THE HUSBAND’S RIGHTS OVER THE WIFE

442. Muḥammad said, “Abū Ḥanīfah informed us from a man from ʿUmar ibn al-Khaṭṭāb ؓ who said, ‘I will prevent access to the pudenda of women of some standing, to all but their peers.’”[1323]

Muḥammad said, “We adhere to this. If a woman marries a man who is not her peer and her guardian brings it to the attention of the ruler or judge (*imam*) then they are separated, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

443. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Al-Ḥakam ibn Ziyād narrated to us, ascribing it to the Prophet ﷺ, that a woman received a proposal of marriage via her father and she said, “I will not marry until I meet the Prophet ﷺ and ask him what are the rights of a husband over his wife.” So she came to him and said, “Messenger of Allah, what are the rights of a husband over his wife?” He said, “If she goes out of her house without his permission, Allah continually curses her as do the angels, the Trustworthy Spirit, the custodians of mercy and the custodians of punishment, until she returns.” She said, “Messenger of Allah, what are the rights of a husband over his wife?” He said, “If he asks her for herself while she is on the point of giving birth (ʿ*alā dhahri qatab*),[1324] she may not

refuse him.” She said, “Messenger of Allah, what are the rights of a husband over his wife?” He said, “If he is angry, she should content him.” A man said, “Even if he is in the wrong?” He said, “Yes, even if he is in the wrong.” She said, “I am not going to marry after what I have heard.”’”[1325]

444. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ayyūb ibn ʿĀ’idh aṭ-Ṭā’ī narrated to us from Mujāhid who said, “A woman came to the Prophet ﷺ bringing along with her an infant son who was still breastfeeding and a son whom she had taken by the hand, and she was pregnant. Anything she asked him for he gave her out of mercy for her. When she departed, he said, ‘Pregnant, giving birth, breastfeeding and showing mercy to their children; if it had not been for how they overpower[1326] their husbands those of them who pray would enter the Garden.”’”[1327]

◆

132. SOMEONE WHO MARRIES A WOMAN WHO HAS BEEN INFORMED OF THE DEATH OF HER HUSBAND

445. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm that ʿUmar ibn al-Khaṭṭāb ؓ said concerning a man whose death is reported to his wife and so she remarries, and later the former husband returns, “The first is given the choice. If he wishes, his wife [is his], and if he wishes, then the dowry [is returned].”’ Abū Ḥanīfah said, ‘She is the former’s wife in every case.’”[1328]

Muḥammad said, “The like of that has reached us from ʿAlī ibn Abī Ṭālib ؓ,[1329] and we adhere to it.”

446. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a woman who has lost her husband, ‘It has reached me what people say[1330] [of her waiting for] four years, but that she wait is preferable to me.’”

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٤٤٧ – وَكَذٰلِكَ بَلَغَنَا عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ رَضِيَ الله عَنْهُ أَنَّه قَالَ فِي الْمَفْقُودِ زَوْجُهَا : إِنَّهَا امْرَأَةٌ ابْتُلِيَتْ ، فَلْتَصْبِرْ حَتَّى يَأْتِيَهَا وَفَاتُه أَوْ طَلَاقُه .

447. Similarly it has reached us from ʿAlī ibn Abī Ṭālib ﵁ who said about someone whose husband has gone missing, “She is a woman who has been tested, so let her be patient until [news of] his death comes to her or of his divorcing [her].”

بَابُ الْعَزْلِ وَمَا نُهِيَ عَنْهُ مِن إِتْيَانِ النِّسَاءِ

133. WITHDRAWAL (*COITUS INTERRUPTUS*),[1331] AND WHAT FORMS OF SEXUAL RELATIONS WITH WOMEN ARE FORBIDDEN

٤٤٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ سَعِيدِ بْنِ جُبَيْرٍ قَالَ : لَا تَعْزِلْ عَنِ الْحُرَّةِ إِلَّا بِإِذْنِهَا ، وَأَمَّا الْأَمَةُ فَاعْزِلْ عَنْهَا ، وَلَا تَسْتَأْمِرْهَا .

448. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Saʿīd ibn Jubayr who said, ‘Do not practice withdrawal[1332] with a free woman without her consent, but as for a slave woman practise withdrawal without asking her consent.’”[1333]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، فَإِنْ كَانَتِ الأَمَةُ زَوْجَةً لَكَ فَلَا تَعْزِلْ عَنْهَا إِلاَّ بِإِذْنِ مَوْلَاهَا ، وَلَا تُسْتَأْمَرُ الأَمَةُ فِي شَيْءٍ مِن ذَلِكَ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this. However, if the slave woman is your wife, you may not practise withdrawal without her owner's permission.[1334] The slave woman's permission is not to be sought in any of that, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

٤٤٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ رَضِيَ الله عَنْهُ أَنَّهُ سُئِلَ عَنِ الْعَزْلِ ، فَقَالَ : لَوْ أَخَذَ اللَّهُ عَزَّ وَجَلَّ مِيثَاقَ نَسَمَةٍ فِي صُلْبِ رَجُلٍ ، فَصَبَّهَا عَلَى صَفَاةٍ أَخْرَجَ اللَّهُ مِنْهَا النَّسَمَةَ الَّتِي أَخَذَ مِيثَاقَهَا ، فَإِنْ شِئْتَ فَاعْزِلْ ، وَإِنْ شِئْتَ فَدَعْ .

449. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm from ʿAbdullāh ibn Masʿūd ؓ that he was asked about withdrawal and he said, 'If Allah image took the covenant from a soul in the spine of a man and yet he poured it out on a stone,[1335] Allah would bring the living being out of it whose covenant He had taken. So practice withdrawal if you wish, and leave it if you wish.'"[1336]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

٤٥٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا أَبُو هَيْثَمٍ الْمَكِّيُّ عَنْ يُوسُفَ بْنِ مَاهَكٍ ، عَنْ حَفْصَةَ زَوْجِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ : أَنَّ امْرَأَةً أَتَتِ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَتْ : إِنَّ لَهَا زَوْجًا يَأْتِيهَا وَهِيَ مُدْبِرَةٌ ، فَقَالَ : لَا بَأْسَ بِهِ إِذَا كَانَ فِي صِمَامٍ وَاحِدٍ .

450. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Abū Haytham al-Makkī narrated to us from Yūsuf ibn Māhik from Ḥafṣah the wife of the Prophet ﷺ that a woman came to the Prophet ﷺ and said that she had a husband who had sexual intercourse with her while she had her back turned to him and he said, “There is no harm in it if it is in a single orifice.”’”[1337]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَإِنَّمَا يَعْنِي بِقَوْلِهِ : (فِي صِمَامٍ وَاحِدٍ) يَقُولُ : إِذَا كَانَ ذَلِكَ فِي الْفَرْجِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this, and he only meant to say by his saying, ‘In a single orifice,’ if that was in the vagina, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٤٥١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ كَثِيرٍ الأَصَمِّ الرَّمَّاحِ عَنْ أَبِي زَرَّاعٍ عَنِ ابْنِ عُمَرَ رَضِيَ الله عَنْهُمَا قَالَ : سَأَلْتُه عَنْ هذِهِ الآيَةِ : ﴿نِسَاؤُكُمْ حَرْثٌ لَكُمْ فَأْتُوا حَرْثَكُمْ أَنَّى شِئْتُمْ﴾ قَالَ : كَيْفَ شِئْتَ ، إِنْ شِئْتَ عَزْلاً ، وَإِنْ شِئْتَ غَيْرَ عَزْلٍ .

451. Muḥammad said, “Abū Ḥanīfah informed us from Kathīr al-Aṣamm ar-Rammāḥ from Abū Zarrāʿ from Ibn ʿUmar ؓ that he [Abū Zarrāʿ] said, ‘I asked him about this *āyah*, “*Your women are fertile fields for you, so come to your fertile fields however you like*” (Sūrat al-Baqarah: 221). He said, “However you wish: practising withdrawal if you wish and not practising withdrawal if you wish.”’”[1338]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٤٥٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حُمَيْدٌ الأَعْرَجُ عَنْ رَجُلٍ عَنْ أَبِي ذَرٍّ رَضِيَ الله عَنْه قَالَ : نَهى رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ إِتْيَانِ النِّسَاءِ فِي أَعْجَازِهِنَّ .

452. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥumayd al-Aʿraj narrated to us from a man from Abū Dharr ؓ who said, “The Messenger of Allah ﷺ forbade having sexual intercourse with women in their posteriors.”’”[1339] [1340]

٤٥٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ : أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ كَانَ يُبَاشِرُ بَعْضَ أَزْوَاجِهِ وَهِيَ حَائِضٌ ، وَعَلَيْهَا إِزَارٌ .

453. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that the Prophet ﷺ used to embrace[1341] one of his wives while she was menstruating, and she was wearing an *izār*.”[1342]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، لا نَرَى بِهِ بَأْساً ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this, and we see no harm in it, and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٤٥٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِنِّي لأَلْعَبُ عَلَى بَطْنِ الْمَرْأَةِ حَتَّى أَقْضِيَ شَهْوَتِي وَهِيَ حَائِضٌ .

454. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘I play on the belly of my wife, while she is menstruating, until I have attained my desire.’”

◆

بَابُ مَا يُكْرَهُ مِنْ وَطْءِ الأُخْتَيْنِ الأَمَتَيْنِ وَغَيْرِ ذَلِكَ

134. WHAT IS ABHORENT OF SEXUAL INTERCOURSE WITH TWO SLAVE WOMEN WHO ARE SISTERS, AND OTHER THINGS

٤٥٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا كَانَ عِنْدَ الرَّجُلِ أُخْتَانِ مَمْلُوكَتَانِ فَوَطِئَ إِحْدَاهُمَا فَلَيْسَ لَهُ أَنْ يَطَأَ الأُخْرَى حَتَّى يُمَلِّكَ فَرْجَ الَّتِي وَطِئَ غَيْرَهُ بِنِكَاحٍ أَوْ غَيْرِهِ ، وَإِنْ كَانَتَا أُخْتَيْنِ إِحْدَاهُمَا امْرَأَتُهُ ، فَوَطِئَ الأَمَةَ مِنْهُمَا فَلْيَعْتَزِلِ امْرَأَتَهُ حَتَّى تَعْتَدَّ الأَمَةُ من مَائِهِ .

455. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man has two sisters as slaves and has sexual intercourse with one of them, he may not have sexual intercourse with the other until someone else takes possession, through marriage or otherwise, of the right to sexual intercourse[1343] with the one with whom he had sexual intercourse. If they are two sisters and one of them is his wife, but he has intercourse with the one who is a slave woman, then he should keep away from his wife until the slave woman has observed the ʿ*iddah* due because of his semen.’”

Muḥammad said, “We adhere to all of this except in one respect: he ought not to have intercourse with his wife[1344] if he has had sexual intercourse with her sister until someone else takes possession of the right to sexual intercourse with her sister whether through marriage or ownership, after she has become purified with a menstruation.[1345] That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

456. Muḥammad said, “Abū Ḥanīfah informed us from al-Haytham from Ibn ʿUmar ؓ who said about two sisters who are slaves of a man with one of whom he has sexual intercourse, that he may not have intercourse with the other until someone else takes possession of the right to intercourse with the one with whom he has had intercourse.”

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

457. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that he deplored[1346] a man having intercourse with his slave woman along with her daughter, or his slave woman along with her sister or her paternal aunt or her maternal aunt. He used to deplore the same matters with respect to slave women which he deplored with respect to free women.”

Muḥammad said, “We adhere to this. Everything which is deplored in respect to marriage is deplored in respect to ownership except in one respect: one may collect as many slave women as one wishes,[1347] but one may not marry more than four free women or four slave women.[1348] That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

135. A SLAVE WOMAN WHO IS SOLD OR GIVEN AS A GIFT WHILE HAVING A HUSBAND

458. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that Ibn Masʿūd رضي الله عنه said concerning the slave woman who is sold while having a husband, ‘Her sale is her divorce.’”[1349]

Muḥammad said, “We do not adhere to this, but we adhere to the hadith of the Messenger of Allah ﷺ when ʿĀ’ishah bought Barīrah and then set her free, so the Messenger of Allah ﷺ gave her the choice between staying with her husband or choosing her self. If her sale had been her divorce, he would not have given her any choice.”[1350]

459. “And it has reached us from ʿUmar, ʿAlī, ʿAbd ar-Raḥmān ibn ʿAwf, Saʿd ibn Abī Waqqāṣ and Ḥudhayfah that they did not regard her sale as her

divorce, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

460. Muḥammad said, “Abū Ḥanīfah informed us from al-Haytham who said, ‘A slave girl was given as a gift to ʿAlī ibn Abī Ṭālib and she had a husband who worked for him. So he wrote to her original owner, “You have sent me a slave girl who is taken.”’”[1351]

Muḥammad said, “We adhere to this: neither her sale nor her being given as a gift is equivalent to her divorce,[1352] and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

461. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Abū’l-ʿAṭūf[1353] narrated to us from az-Zuhrī that ʿAbdullāh ibn Masʿūd bought a slave girl[1354] from his wife Zaynab ath-Thaqafiyyah.[1355] She laid as a condition on him[1356] that if he was in no need of her she would have more right to her [and could purchase her] for the same price. He met ʿUmar ibn al-Khaṭṭāb and mentioned that to him and he said, “It does not please me[1357] that you should approach her while there is a condition on her,”[1358] and so ʿAbdullāh went back and returned her.’”

Muḥammad said, “We adhere to this. Every condition laid on a sale, which is not part of the sale itself[1359] but in which there is some benefit for the seller, or the purchaser or the slave girl, corrupts the sale, as in this case and similar ones, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

[1216] Following on from His words, exalted is He, “*...your mothers...*” (Sūrat an-Nisā’: 23) i.e., “*Ḥarām* for you are: your mothers and your daughters and your sisters ... and *ḥarām* for you are married women.” However, this is not unqualifiedly so, but on the contrary forbidden after the four, which is shown by His words, exalted is He, at the beginning of the surah, “*...then marry other permissible women*.” (Sūrat an-Nisā’: 3) The meaning of *muḥṣanāt* according to the well-known position is those possessing husbands.

[1217] Although the *āyah* literally says, “*Those whom your right hands own*,” it refers here to slaves taken in war, since a man may not have sexual relations with one of his slave women who is in a legitimate marriage. Wives of combatants captured in war are automatically divorced and are thus not under this restriction.

[1218] Because of the hadith of Jābir image, “One should not marry a slave woman when already married to a free woman.” Al-Bayhaqī narrated from al-Ḥasan image that the Prophet image forbade someone already married to a free woman to marry a slave woman.

[1219] And ash-Shāfiʿī image said that he may only marry one.

[1220] Abū Yūsuf narrated it on p.131.

[1221] In total four, not eight comprising four free women and four slave women.

[1222] Abū Yūsuf narrated it on p.131.

[1223] i.e., to have sexual intercourse, meaning that a slave may not have sexual intercourse outside of marriage in the way that a free man is permitted to have sexual intercourse with his slave girl.

[1224] Sexual intercourse with slave women is not *ḥalāl* except for those who possess those rights of disposal whether by purchase or other means [such as gift], and a slave may not own any of that.

[1225] Sexual intercourse through ownership with slave women is not *ḥalāl* for a slave.

[1226] *tasarrā* means to take a *surriyyah*, which is a concubine.

[1227] The two *āyāt* here are: “*Those who guard their private parts – except from their wives or those they own as slaves*” (Sūrat al-Mu’minūn: 5-6).

[1228] A slave man and slave woman may not marry without permission of their respective masters because of his saying image, “Whatever slave marries without permission of his master is an adulterer.” Mālik said that it is permissible for the slave man but not for the slave woman.

[1229] Abū Yūsuf narrated it on p.130.

[1230] An *umm walad* is a slave woman who gives birth to her master’s children, and who thus has a different status from other slave women.

[1231] When her master marries off his *umm walad* and she gives birth to a child from someone other than her master.

[1232] The child has the same status as his mother, meaning that if the master dies they are both freed from out of the total of the wealth because the right to freedom is transmitted to the child just as in the case of a slave who is to be set free on the death of his master because the child of a slave woman in this situation is also to be set free on the master’s death.

[1233] If she is set free and if her husband was a slave, then she has the choice by unanimous agreement, but if he was free, then she has no choice according to the three Imams. Abū Ḥanīfah said that she has the choice, the source for which is the hadith of Barīrah whom the Messenger of Allah image gave the choice when she was set free, and according to some narrations her husband was a slave and according to others he was free.

[1234] If she has a defect.

[1235] Then the husband has no choice.

[1236] If it is not possible for her to remain with him without suffering harm, then at that point she is given the choice, but otherwise not.

[1237] Someone whose penis and testicles are cut off.

[1238] A person unable to have sexual intercourse with women.

[1239] *ratqā'*: meaning a woman with whom it is not possible to have sexual intercourse since she has no orifice except that for urination.

[1240] Literally overcome by whisperings.

[1241] *judhām*: the type of leprosy in which patients lose limbs and bodily parts.

[1242] *baraṣ* – a distinct type of malignant leprosy "*termed 'leuce'*" described as "*a whiteness incident in the skin... a whiteness which appears upon the exterior of the body by reason of a corrupt state of constitution*" (Lane's *Arabic-English Lexicon*). – Trans.

[1243] Possibly Abū Ghādiyah al-Juhanī the Companion.

[1244] Muʿāwiyah ibn Ḥaydah. Aṭ-Ṭabarānī narrated it.

[1245] A woman who does not give birth, since the purpose of marriage is the continuance of lineage and not just to fulfil one's appetite.

[1246] "To boast because of you over all the other communities because of the great number of my followers."

[1247] An incomplete foetus or the one who is miscarried from his mother's womb and stillborn while his form is clearly defined.

[1248] Some said that it means "continue to refuse" in the sense of refusing a demand.

[1249] Abū Yūsuf narrated it on p.204-5.

[1250] i.e., her order and permission are sought in the case when she has attained puberty and has full possession of her intellect. Ash-Shāfiʿī image said that it is permissible for the father and grandfather to marry off a virgin without her consent [and Mālik image said it is permissible for the father, but not for a guardian].

[1251] He did not measure out nor specify.

[1252] Of a similar measure to the dowry of other similar women.

[1253] Allah, exalted is He.

[1254] Her husband was Hilāl ibn Murrah.

[1255] Abū Yūsuf narrated it on p.132, and Abū Dāwūd under “marriage” in the chapter on “someone who marries and does not name a dowry,” and at-Tirmidhī under “marriage” in the chapter on “what has been narrated about a man marrying a woman and then dying.”

[1256] Some said that it was Maʿqil ibn Sinān as is in the narration of Abū Dāwūd.

[1257] Because marriage during the ʿ*iddah* of the other marriage is not permissible, and if the marriage is not valid the divorce is not valid since the divorce is based on it.

[1258] Because in it there is an ambiguous marriage. [Although they were not validly married, it is an ambiguous marriage, and so the judgement if he accuses her of sexual impropriety is that of a husband making such an accusation, and the husband is not flogged for doing so. – Trans.]

[1259] When a husband swears four oaths accusing his wife of adultery laying a curse upon himself if he is a liar, and she exonerates herself by swearing four oaths that he is lying and laying a curse upon herself if she is lying. – Trans.

[1260] Since the marriage was not valid. – Trans.

[1261] *bā’in* divorce is, for example, when the couple have divorced one time and the ʿ*iddah* has expired without them reconciling. They are finally divorced but not irrevocably since the man could propose a new marriage to her. – Trans.

[1262] i.e., he had his way with her sexually. [If he consummated the marriage, he has to pay the dowry for having had intercourse with her. If he did not consummate the marriage, there will be no dowry under any circumstances since the marriage was invalid in the first place. – Ed.]

[1263] Abū Yūsuf narrated it on p.132.

[1264] i.e., calculates what she thinks has taken place of her menstrual cycle, reckoning both of them together. So, if the ʿ*iddah* from the first has come to an end but the second has not been completed then she must complete the second ʿ*iddah*. Its form is that if the second sexual intercourse occurred after the woman had seen her menstruation, then after the second act of sexual intercourse it is obligatory for her to observe three menstrual cycles also. Two menstrual cycles stand in for four menstrual cycles, two for the former, two for the latter, and the third for the second act of sexual intercourse particularly.

[1265] Ziyād ibn Kulayb al-Kūfī.

[1266] Presumably this is by mistake, for otherwise it would seem that the punishment for transgressing the limit would be due. – Trans.

[1267] It is final because *īlā’* and *khul*ʿ divorce bring about a final divorce, and in final divorce they cannot return to each other except in a new marriage.

[1268] i.e., the new marriage [if they decide upon that] will be after the completion of the ʿ*iddah*.

[1269] i.e., if a man divorces his wife finally and then remarries her within her ʿ*iddah* and then divorces her before consummating the marriage with her, then he owes her the complete dowry and she has an independent ʿ*iddah* to observe according to Abū Ḥanīfah and Abū Yūsuf, but Muḥammad said that he owes her half of the dowry and she must complete the first ʿ*iddah*. This case is based on another principle, which is whether or not the consummation of the first marriage is also taken to be the consummation of the second marriage. According to Muḥammad it was not, but according to the two of them it is.

[1270] When set free, a slave woman married to a slave has the choice of remaining in the marriage or not.

[1271] Because he divorced her before consummation.

[1272] *muḥṣan* comprises being married or having been married, such that if the person commits adultery they would be liable to the punishment of stoning rather than the lesser punishment of flogging.

[1273] Contrary to our original text which had *aʿẓimu ʿalayka* but in agreement with the text prepared for us, Ḥāfiẓ Riyāḍ Aḥmad al-Multānī has *aʿzimu ʿalayka* and says it means, “I adjure you.” – Trans.

[1274] But it is more appropriate that one not marry women of the People of the Book and that their meat not be eaten.

[1275] i.e., marriage to a *kāfir* woman of the People of the Book does not make a Muslim *muḥṣan* [such that if he committed adultery he would be stoned]. Abū Yūsuf said in his *al-Kharāj*, “And the best of what we have heard respecting that is that the matter of being *muḥṣan*, and Allah knows best, is that a free Muslim only becomes *muḥṣan* by marriage to a free woman, and if he is married to a woman of the People of the Book, he becomes *muḥṣan* but she does not become *muḥṣanah* by him.”

[1276] Because stoning is for those who have committed adultery, men and women who have become *muḥṣan*, and the condition of being *muḥṣan* is if he is in full possession of his intellect and has reached puberty, having married a healthy free woman and had sexual intercourse with her.

[1277] Since it is permissible for a woman of the People of the Book to be married to a Muslim man.

[1278] Since their separation is on her part and the dowry was not confirmed so that it resembles the case of apostasy and compliance (*muṭāwaʿah*) and if he consummates the marriage with her she has the full dowry because of his confirmation of it by consummation.

[1279] According to Abū Ḥanīfah and Muḥammad, but Abū Yūsuf said that the separation is not a divorce. [I have translated *bā’in* as “final” since there is no possibility of the husband taking her back as in *rajʿī* divorce, but nevertheless he may propose to her in a fresh marriage, as opposed to “irrevocable” types of divorce. – Trans.]

[1280] And Abū Yūsuf.

[1281] Since the apostasy negates the marriage because of the fact that it negates [his] matrimonial authority. Divorce brings the marriage to an end [and is unlike an annulment or cancellation of marriage] thus it is not feasible to regard it as a divorce.

[1282] If it is the man who is an apostate.

[1283] Belonging to someone else [because it is not possible for someone to marry a slave woman whom he owns. – Trans.]

[1284] From her owner.

[1285] Her owner.

[1286] The husband.

[1287] A binding divorce, which is twice with respect to her.

[1288] The divorce of a slave woman is twice whether her husband is free or a slave. The divorce of a free woman is thrice whether her husband is free or a slave.

[1289] What is meant in all of these examples is to define the limits of the maximum number of times that a man may divorce his wife and remarry her. For a free woman, on the third divorce she becomes irrevocably separated, and for the slave woman she becomes irrevocably separated by two divorces. However, if in either case, they divorce once and the ʿ*iddah* expires without reconciliation, then the divorce is final, but the man may still propose marriage again to her. There is no sense in which men have to divorce free women three times and slave women twice. It is simply defining the limits.

[1290] Abū Yūsuf narrated the like of it on p.143.

[1291] Because she is his wife and the ʿ*iddah* of a widow is four months and ten days.

[1292] Because she became a free woman after the death of her husband so her ʿ*iddah* is the same as that of the *umm walad* whose master dies, and that is three menstruations.

[1293] Abū Yūsuf narrated the like of it on p.145.

[1294] The dowry is to be given to her master since she was his slave when the marriage and its consummation took place. – Trans.

[1295] Which is binding with respect to her. If he divorced her once in a divorce in which he could take her back, and she was set free in her ʿ*iddah*, then her ʿ*iddah* is transferred to the ʿ*iddah* of free women because the marriage remains from every point of view.

[1296] Abū Yūsuf narrated it on p.144.

[1297] The uncle owns the slave woman and any children she has in marriage.

[1298] The girl is the daughter of his nephew and thus the uncle’s grandniece.

[1299] The girl is in the same position as the uncle’s niece, i.e., she is forbidden to him in marriage.

[1300] She is free presumably because one may not own a relative who is *maḥram*.

[1301] And he is not stoned because he is not *muḥṣan*.

[1302] *ḥadd* literally "a limit," denotes those limits, including murder, theft, adultery and drunkenness, for the contravention of which there are specific punishments. Sometimes we have translated it simply as "punishment" but in some passages it is vital to be more specific and we have chosen then to retain the Arabic term in the phrase "*ḥadd* punishment." – Trans.

[1303] The text seems mistakenly to have *ʿalayhi* – "inflicted upon him" instead of *ʿalayhā* – "inflicted on her." – Trans.

[1304] Abū Yūsuf narrated it on p.131.

[1305] Its form is that a man says to his bride, "I contract a temporary marriage with you for ten days," for example, or he does not mention the number of days, "for such an amount of money."

[1306] i.e., their remoteness from marriage. Al-Māzarī said, "It is established that temporary marriage was permissible in the beginning of Islam, but then later it is established by *ṣaḥīḥ* hadith that it was abrogated, and consensus was reached that it is abrogated which no one disagreed with except a party of the innovators, the 'rejectors (*rawāfiḍ*).'"

[1307] Abū Yūsuf narrated it on p.152.

[1308] Abū Yūsuf narrated it on p.152.

[1309] An-Nawawī said, "The chosen correct position is that the prohibition and the permitting of it both took place twice. It had been permissible before Khaybar and then it was prohibited on the day of Khaybar. Subsequently it was permitted on the day of the Opening of Makkah [to Islam], which was also the day of Awṭās, because the two of them were the same. Three days later at that time it was prohibited for ever until the Day of Rising and the prohibition endures."

[1310] Abū Yūsuf narrated it on p.153 from az-Zuhrī as a *mawqūf* statement of his.

[1311] [Women] are mentioned as a precaution [in case *mut ʿah* marriage might be confused] with the *mut ʿah* [type of] Hajj [which is *tamattuʿ*].

[1312] Abū Yūsuf narrated it on p.152.

[1313] As-Sanbahlī said, "The correct position is that it was Aflaḥ the brother of Abū Quʿays.

[1314] After [the revelation of] the *āyah* on veiling.

[1315] By suckling.

[1316] i.e., "how can it be established that you are a paternal uncle?"

[1317] In another narration it is, "My brother's wife suckled you with my brother's milk."

[1318] *ḥarām* means here unmarriageable. It has not only the sense of prohibition, but of admitting to the inner sanctum of the family.

[1319] Al-Bukhārī narrated it under "marriage" in the chapter on "what consummation is permissible," and Muslim under "breast-feeding" in the chapter on "breast-feeding renders [someone] a *maḥram*."

[1320] Know that they agree that whoever has sexual intercourse with a woman through his ownership, then she is *ḥarām* to his sons. They differed concerning embrace and touching with sexual appetite and gazing. Ash-Shāfiʿī image said, “It is not clearly established that the sanctity of being an in-law comes about by passionate glances or by sexual caresses.” Abū Ḥanīfah said that such sanctity does take place.

[1321] Because *kufr* and apostasy are in the category of belief, and belief is not a reality when intoxicated. This is a ruling of juridical discretion. Analogically she becomes finally divorced from him, and it is thus in *al-Mabsūṭ*.

[1322] Because he did not clearly slander her.

[1323] The like of or the equal. This is that in marriage the husband is the equal of the wife in standing, lineage, *dīn* and age etc.

[1324] *qatab* is a small saddle. Lane said, “*It is said in a tradition that the woman on the occasion of her bringing forth used to be seated on a qatab in order that her parturition might be more easy*.” – Trans.

[1325] Abū Yūsuf narrated it on p.202.

[1326] *ya’tīna ʿalā* is from *atā ʿalā* which can signify “[the enemy] came down upon [them],” and “destroyed, caused to come to an end, made an end of, consumed, devoured, exhausted, overcame, overpowered.” However, it is possible that it refers to *āyah* 12 in Sūrat al-Mumtaḥanah about emigrant women “*[pledging allegiance not to] give a false ascription of paternity* (*ya’tīna bi buhtān*).” And Allah knows best. – Trans.

[1327] Abū Yūsuf narrated it on p.202.

[1328] Abū Yūsuf narrated it on pp.131-2.

[1329] Abū ʿUbayd narrated it from ʿAlī image, “When her first husband comes then he has no choice and she is his wife.” [Endorsing the judgement of Imam Abū Ḥanīfah. – Trans.]

[1330] And that is the *madhhab* of Mālik image.

[1331] Withdrawal of the penis before ejaculation, or *coitus interruptus*. – Trans.

[1332] *iʿtizāl*: withdrawal, is that one has sexual intercourse and then when one approaches ejaculation one withdraws the penis and ejaculates outside of the vulva. Outwardly there is a contradiction in the narrations concerning its permissibility or abhorence, and the interpretation made is that it is abhorent with free women and permissible with slave women, and even if abhorence is obligatory in the case of slave women according to what is in some narrations, that is based on that leaving it out is more fitting, and so it is in order to be free from any stain (*tanzīh*).

[1333] Abū Yūsuf narrated it on p.155.

[1334] And some have said, her consent.

[1335] Aḥmad narrated it with the wording, “Even if you had poured out the fluid from which the child would come on a stone Allah would bring a child out of it, and Allah will definitely create a self of which He is the Creator.”

[1336] Abū Yūsuf narrated it on p.154.

[1337] Abū Yūsuf narrated it on p.134.

[1338] Abū Yūsuf narrated it on pp.154-5.

[1339] Because of His saying, exalted is He, “*...so come to your fertile fields however you like*” (Sūrat al-Baqarah: 221), and the vulva is the locus of cultivation, meaning where the child is cultivated, and not the anus which is the locus of faeces. Abū Dāwūd narrated through Abū Hurayrah, “Accursed is he who has intercourse with his wife in her anus.”

[1340] Abū Yūsuf narrated it on pp.134-5.

[1341] i.e., without sexual intercourse. [*Bāshara*: embrace, contains the sense of being skin-to-skin. – Trans.]

[1342] The *izār* is a loose cloth wrapped around the lower half of the body.

[1343] He may not have sexual intercourse with the other after that as long as intercourse with the former is not forbidden to him either by her marrying or her leaving his possession by being set free, sold or given as a gift or donated as *ṣadaqah*, because if he had intercourse with the other he would be uniting them together in having sexual intercourse with them [while owning both of them] which is not permissible, because of His saying, exalted is He, “*...and that you should [not] unite two sisters*,” (Sūrat an-Nisā’: 23), and uniting them in having sexual intercourse with both of them [while owning both of them] is comprised under this “uniting” and is thus *ḥarām*.

[1344] Because of the possibility that his slave woman is pregnant, so that his [spermatic] fluid would at the same time be in the wombs of two sisters.

[1345] So that he knows that she is not pregnant.

[1346] “Deplore” (from *makrūh*) is here in the sense of *ḥarām*.

[1347] Without reckoning the number even if it exceeds a thousand.

[1348] Meaning a sum total of four wives, with whatever combination of free women and slave women.

[1349] i.e., selling a married slave woman is her divorce and separation from her husband.

[1350] Al-Bukhārī narrated it in a number of places, among which are under “the slave who is given a contract to purchase his freedom (*mukātab*)” in the chapter on “the *mukātab* seeking help,” and Muslim under “emancipation” in the chapter on “the *walā’* belongs to the person who sets [the slave] free.”

[1351] By being married to someone else.

[1352] And indeed it is not permissible for him to have sexual intercourse with her until her husband divorces her.

[1353] Jarrāḥ ibn Minhāl.

[1354] i.e., a slave woman of hers. [*Jāriyah* is also ordinarily used for a girl under the age of puberty. – Trans.]

[1355] His wife’s name.

[1356] On her husband as the purchaser.

[1357] i.e., it is not *ḥalāl* for you to have sexual intercourse with her.

[1358] i.e., for the seller or the purchaser or subject of the contract. The criterion concerning this is that every condition not necessitated by the contract; and in which there is some benefit for one of the contracting parties or for that [thing or person] contracted over, if it has an interest [in the contract] invalidates the sale; unless it is accepted practice or established by the *Sharīʿah*. This is because it is not customary and nothing is narrated about it in the *Sharīʿah* such as stipulating a period of time for a price and an object of value (*muthman*) and the precondition of right of withdrawal and it does not comprise firm consolidation such as the precondition of guarantor of a price – because that is permissible.

[1359] Is not a requisite part of it.

DIVORCE

بَابُ الطَّلَاقِ وَالْعِدَّةِ

136. DIVORCE AND THE ʿ*IDDAH*

٤٦٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا أَرَادَ الرَّجُلُ أَنْ يُطَلِّقَ امْرَأَتَهُ لِلسُّنَّةِ تَرَكَهَا حَتَّى تَحِيضَ وَتَطْهُرَ من حَيْضِهَا ، ثُمَّ يُطَلِّقُهَا تَطْلِيقَةً من غَيْرِ جِمَاعٍ، ثُمَّ يَتْرُكُهَا حَتَّى تَنْقَضِيَ عِدَّتُهَا وَإِنْ شَاءَ طَلَّقَهَا ثَلَاثاً عِنْدَ كُلِّ طُهْرٍ تَطْلِيقَةً حَتَّى يُطَلِّقَهَا ثَلَاثاً .

462. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man wishes to divorce his wife according to the Sunnah,[1360] he should leave her until she has her menstrual period[1361] and then becomes pure from her menstruation. Then he should divorce her a single time without having sexual intercourse. He should leave her alone until her ʿ*iddah* expires. If he wishes, he may divorce her three times, at each purification [from her menstruation] with a single [pronunciation of] divorce until he has [pronounced] divorce [from] her three times.’”[1362]

قَالَ مُحَمَّدٌ : وَ بِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٤٦٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ عَنْ عَبْدِ اللَّهِ بْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا : أَنَّهُ طَلَّقَ امْرَأَتَه وَهِيَ حَائِضٌ ، فَعِيبَ ذَلِكَ عَلَيْهِ فَرَاجَعَهَا ، ثُمَّ طَلَّقَهَا فِي طُهْرِهَا .

463. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm that ʿAbdullāh ibn ʿUmar ﵄ divorced his wife[1363] while she was menstruating, but fault was found with him about that and so he took her back[1364] and later divorced her in her state of purity.’”[1365]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَلَا نَرَى أَنْ يُطَلِّقَهَا فِي طُهْرِهَا من الْحَيْضَةِ الَّتِي طَلَّقَهَا فِيهَا ، وَلَكِنَّهَا يُطَلِّقُهَا إِذَا طَهُرَتْ من حَيْضَةٍ أُخْرَى .

Muḥammad said, “We adhere to this. We do not think that he should divorce her in the state of purity after the menstruation during which he [mistakenly] divorced her, but he should divorce her when she becomes pure from a subsequent menstruation.”

٤٦٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا أَرَادَ الرَّجُلُ أَنْ يُطَلِّقَ امْرَأَتَه وَهِيَ حَامِلٌ ؛ فَلْيُطَلِّقْهَا عِنْدَ كُلِّ غُرَّةِ هِلَالٍ .

464. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man wishes to divorce his wife while she is pregnant, he should divorce her at the sighting of each new moon.’”[1366] [1367]

قَالَ مُحَمَّدٌ : وَبِهِ كَانَ يَأْخُذُ أَبُو حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى ، وَأَمَّا فِي قَوْلِنَا فَطَلَاقُ الْحَامِلِ لِلسُّنَّةِ تَطْلِيقَةٌ وَاحِدَةٌ ، يُطَلِّقُهَا فِي غُرَّةِ الْهِلَالِ أَوْ مَتَى شَاءَ ، ثُمَّ يَدَعُهَا حَتَّى تَضَعَ حَمْلَهَا . وَكَذَلِكَ بَلَغَنَا عَنِ الْحَسَنِ الْبَصْرِيِّ ، وَجَابِرِ بْنِ عَبْدِ اللَّهِ ، وَكَذَلِكَ بَلَغَنَا ذَلِكَ عَنْ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ رَضِيَ الله عَنْه .

Muḥammad said, “Abū Ḥanīfah used to adhere to this,[1368] may Allah, exalted is He, have mercy on him, but our verdict is that the divorce of a pregnant woman according to the Sunnah is a single divorce which he pronounces at the sighting of the new moon or whenever he wishes. Then he leaves her until she delivers her child. Thus it has reached us from al-Ḥasan al-Baṣrī and Jābir ibn ʿAbdullāh, and thus it has reached us from ʿAbdullāh ibn Masʿūd ﵁.”

بَابُ مَنْ طَلَّقَ امْرَأَتَهُ وَهِيَ حَامِلٌ

137. SOMEONE WHO DIVORCES HIS WIFE WHILE SHE IS PREGNANT

٤٦٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الْمُطَلَّقَةِ ، وَالْمُخْتَلِعَةِ وَالْمُولَى مِنْهَا إِنْ كَانَتْ حُبْلَى أَوْ غَيْرَ ذَلِكَ : أَنَّ لَهَا النَّفَقَةَ وَالسُّكْنَى حَتَّى تَضَعَ ، إِلاَّ أَنْ يَشْتَرِطَ زَوْجُ الْمُخْتَلِعَةِ بَعْدَ الْخُلْعِ أَنْ لا نَفَقَةَ لَهَا .

465. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm concerning the woman who is divorced,[1369] and the woman who is divorced at her own request for a compensation which she pays (*khulʿ*), and the woman who is divorced because of her husband’s oath to abstain from intercourse for a period longer than four months (*īlā’*) and his adherence to that oath,[1370] ‘If she is pregnant or otherwise then she has maintenance and accommodation until she delivers the baby[1371] unless the husband of a woman divorced at her own request for a compensation stipulates that after the *khulʿ* she will have no maintenance.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

بَابُ طَلَاقِ الْجَارِيَةِ الَّتِي لَمْ تَحِضْ وَعِدَّتِهَا

138. DIVORCE OF A SLAVE GIRL WHO HAS NOT MENSTRUATED AND HER ʿ*IDDAH*

٤٦٦ - مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا طَلَّقَ الرَّجُلُ امْرَأَتَه وَهِيَ جَارِيَةٌ لَمْ تَحِضْ فَلْتَعْتَدَّ بِالشُّهُورِ ، فَإِنْ حَاضَتْ قَبْلَ أَنْ تَنْقَضِيَ الشُّهُورُ لَمْ تَعْتَدَّ بِالشُّهُورِ ، وَاعْتَدَّتْ بِالْحَيْضِ .

466. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man divorces his wife and she is a girl[1372] and she is not menstruating, let her reckon her ʿ*iddah* by months. However, if she then menstruates before the months are over, she should not reckon the ʿ*iddah* by months but by menstrual periods.’”[1373] [1374]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ .

Muḥammad said, “We adhere to this.”

بَابُ مَنْ طَلَّقَ ثُمَّ تَزَوَّجَتِ امْرَأَتُه ثُمَّ رَجَعَتْ إِلَيْهِ

139. A DIVORCEE, WHOSE WIFE REMARRIES AND LATER RETURNS TO HIM

٤٦٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ سَعِيدِ بْنِ جُبَيْرٍ قَالَ : كُنْتُ جَالِسًا عِنْدَ عَبْدِ اللَّهِ بْنِ عُتْبَةَ بْنِ مَسْعُودٍ ، إِذْ جَاءَهُ رَجُلٌ أَعْرَابِيٌّ يَسْأَلُهُ عَنْ رَجُلٍ طَلَّقَ امْرَأَتَهُ تَطْلِيقَةً أَوْ تَطْلِيقَتَيْنِ ، ثُمَّ انْقَضَتْ عِدَّتُهَا ، فَتَزَوَّجَتْ زَوْجًا غَيْرَهُ فَدَخَلَ بِهَا ، ثُمَّ مَاتَ عَنْهَا أَوْ طَلَّقَهَا ، ثُمَّ انْقَضَتْ عِدَّتُهَا ، وَأَرَادَ الْأَوَّلُ أَنْ يَتَزَوَّجَهَا : عَلَى كَمْ هِيَ عِنْدَهُ؟ قَالَ فَقَالَ لِي : أَجِبْهُ ، ثُمَّ قَالَ : مَا يَقُولُ ابْنُ عَبَّاسٍ فِيهَا ؟ قَالَ : فَقُلْتُ لَهُ : يَهْدِمُ الْوَاحِدَةَ وَالثِّنْتَيْنِ وَالثَّلَاثَ ، قَالَ : سَمِعْتَ من ابْنِ عُمَرَ فِيهَا شَيْئًا ؟ قَالَ : فَقُلْتُ : لَا ، قَالَ إِذَا لَقِيتَهُ فَاسْأَلْهُ ، قَالَ : فَلَقِيتُ ابْنَ عُمَرَ رَضِيَ اللهُ عَنْهُمَا ، فَسَأَلْتُهُ عَنْهَا ، فَقَالَ فِيهَا مِثْلَ قَوْلِ ابْنِ عَبَّاسٍ رَضِيَ اللهُ عَنْهما .

467. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Saʿīd ibn Jubayr who said, ‘I was seated with ʿAbdullāh ibn ʿUtbah ibn Masʿūd when a Bedouin Arab came to ask him about a man who had divorced his wife once or twice, and her ʿ*iddah* had expired and she had married another husband who had consummated the marriage with her, and who had then himself died or divorced her. Then her ʿ*iddah* had expired, and the former husband wanted to marry her. [He asked] “How many [divorces] is she now reckoned to have had from him?”’[1375] He [Saʿīd ibn Jubayr] said, ‘He [ʿAbdullāh ibn ʿUtbah] said to me, “Answer him.” Then he said, “What does Ibn ʿAbbās say about it?”’ He said, ‘So I [Saʿīd ibn Jubayr] said, “It obliterates one, two[1376] and three [divorces].” He said, “Have you heard anything about it from Ibn ʿUmar?”’ He [Saʿīd ibn Jubayr] said, ‘I said, “No.” He said, “When you meet him, ask him.”’ He [Saʿīd ibn Jubayr] said, ‘So I met Ibn ʿUmar ؓ and asked him about it, and he said the same about it as had Ibn ʿAbbās ؓ.’”[1377]

قَالَ مُحَمَّدٌ : وَبِهَذَا كَانَ يَأْخُذُ أَبُو حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى ، وَأَمَّا فِي قَوْلِنَا فَهُوَ عَلَى مَا بَقِيَ من طَلَاقِهَا إِذَا بَقِيَ مِنْهُ شَيْءٌ وَهُوَ قَوْلُ عُمَرَ ، وَعَلِيِّ بْنِ أَبِي طَالِبٍ ، وَمُعَاذِ بْنِ جَبَلٍ ، وأُبَيِّ بْنِ كَعْبٍ ، وَعِمْرَانَ بْنِ حُصَيْنٍ ، وَأَبِي هُرَيْرَةَ رَضِيَ اللهُ عَنْهُمْ .

Muḥammad said, “Abū Ḥanīfah used to adhere to this,[1378] may Allah, exalted is He, have mercy on him, but our verdict is that she is on whatever remains of her divorce[1379] if anything[1380] remains of it.[1381] That was the verdict of ʿUmar, ʿAlī ibn Abī Ṭālib, Muʿādh ibn Jabal, Ubayy ibn Kaʿb, ʿImrān ibn Ḥuṣayn and Abū Hurayrah ؓ.”

٤٦٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا طَلَّقَ الرَّجُلُ امْرَأَتَهُ ثُمَّ رَاجَعَهَا فَقَدْ انْهَدَمَ مَا مَضَى مِن عِدَّتِهَا ، وَ إِنْ طَلَّقَهَا اسْتَأْنَفَ الْعِدَّةَ .

468. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man divorces his wife and then takes her back, whatever has passed of her ʿ*iddah* is voided, and if he divorces her [again] then the ʿ*iddah* begins again anew.’”[1382]

قَالَ مُحَمَّدٌ : وَبِهَذَا نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ مَنْ طَلَّقَ ثُمَّ رَاجَعَ مِن أَيْنَ تَعْتَدُّ

140. A DIVORCEE WHO TAKES HIS WIFE BACK; FROM WHERE DOES SHE BEGIN HER ʿ*IDDAH*?

٤٦٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا طَلَّقَ الرَّجُلُ امْرَأَتَهُ وَلَمْ يُرَاجِعْ فَطَلَّقَهَا تَطْلِيقَةً أُخْرَى ، فَعِدَّتُهَا مِن أَوَّلِ التَّطْلِيقَتَيْنِ ، وَإِنْ طَلَّقَ ثُمَّ رَاجَعَ ثُمَّ طَلَّقَ ، فَعِدَّتُهَا عِدَّةٌ مُؤْتَنِفَةٌ .

469. Muḥammad said, “Abū Ḥanīfah informed us from Ibrāhīm who said, ‘If a man divorces his wife and does not take her back, but divorces her another time, her ʿ*iddah* is counted from the first of the divorces. However

if he divorces her, then takes her back and then divorces her, her ʿ*iddah* starts afresh.’”[1383]

قَالَ مُحَمَّدٌ : وَبِهَذَا نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ مَنْ طَلَّقَ ثَلاثًا قَبْلَ أَنْ يَدْخُلَ بِهَا

141. SOMEONE WHO DIVORCES THREE TIMES BEFORE CONSUMMATING THE MARRIAGE

٤٧٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا طَلَّقَ الرَّجُلُ امْرَأَتَه ثَلاثًا قَبْلَ أَنْ يَدْخُلَ بِهَا جَمِيعًا بَانَتْ بِهِنَّ جَمِيعًا ، وَكَانَتْ حَرَامًا عَلَيْهِ حَتَّى تَنْكِحَ زَوْجًا غَيْرَه ، فَإِذَا فَرَّقَ بَانَتْ بِالأُولَى ، وَوَقَعَتِ الثَّانِيَةُ عَلَى غَيْرِ امْرَأَتِه .

470. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man divorces his wife three times together before consummating marriage with her, she becomes finally divorced from him because of them all together[1384] and she is forbidden to him until she marries another husband. So when he separates [from her] she becomes finally divorced by the first [divorce][1385] and the second [divorce] falls upon someone who is not his wife.’”[1386] [1387]

قَالَ مُحَمَّدٌ : وَبِهَذَا نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ مَنْ طَلَّقَ فِي مَرَضِهِ قَبْلَ أَنْ يَدْخُلَ بِهَا أَوْ بَعْدَ مَا دَخَلَ بِهَا

142. SOMEONE WHO DIVORCES DURING HIS ILLNESS BEFORE OR AFTER CONSUMMATING THE MARRIAGE

٤٧١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي مَرِيضٍ طَلَّقَ امْرَأَتَه فَمَاتَ قَبْلَ أَنْ تَنْقَضِيَ عِدَّتُهَا : أَنَّها تَرِثُه وَتَعْتَدُّ عِدَّةَ الْمُتَوَفَّى عَنْهَا زَوْجُهَا .

471. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a sick person who divorces his wife[1388] and dies before her ʿ*iddah* has expired that she inherits from him and observes the ʿ*iddah* of someone whose husband has died.”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ إِذَا كَانَ طَلاقًا يَمْلِكُ الرَّجْعَةَ ، فَإِنْ كَانَ الطَّلاقُ بَائِنًا فَعَلَيْهَا مِن الْعِدَّةِ أَبْعَدُ الأَجَلَيْنِ : مِن ثَلاثِ حِيَضٍ مِن يَوْمِ طَلَّقَ ، وَمِن أَرْبَعَةِ أَشْهُرٍ وَعَشْرًا مِن يَوْمِ مَاتَ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this if it was a divorce in which he retained the right to take back his wife. If the divorce was final, she has to observe as ʿ*iddah* whichever of the two is longer:[1389] the three menstruations from the day on which he pronounced the divorce or the four months and ten days from the day on which he died, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”[1390]

٤٧٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّه قَالَ : إِذَا طَلَّقَ الرجُلُ امْرَأَتَه واحدةً ، أَوْ اثنتَيْنِ ، أَوْ ثَلَاثًا وَهُوَ مَرِيضٌ، ولم يَدْخُلْ بِهَا فَلَهَا نِصْفُ الصَّداقِ وَلَا مِيراثَ لها ، ولا عِدَّةَ عَلَيْهَا .

472. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man divorces his wife once, twice or thrice while he is

ill, without having consummated the marriage with her, she is owed a half of the dowry but does not inherit and has no ʿ*iddah*.’”[1391]

قَالَ مُحَمَّدٌ وَبِهَذَا نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٤٧٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي رَجُلٍ طَلَّقَ امْرَأَتَهُ وَاحِدَةً أَوْ اثْنَتَيْنِ : أَنَّهُمَا يَتَوَارَثَانِ مَا كَانَتْ فِي عِدَّةٍ ، وَتَسْتَقْبِلُ عِدَّةَ الْمُتَوَفَّى عَنْهَا زَوْجُهَا أَرْبَعَةَ أَشْهُرٍ وَعَشْراً ، فَإِنْ طَلَّقَهَا ثَلَاثاً فِي الصِّحَّةِ ثُمَّ مَاتَ ، فَعِدَّتُهَا عِدَّةُ الْمُطَلَّقَةِ ثَلَاثُ حِيَضٍ .

473. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who divorces his wife once or twice,[1392] that they inherit from each other as long as [either dies while] she is in her ʿ*iddah*. Then she begins afresh the ʿ*iddah* of the woman whose husband has died, four months and ten days. If he had divorced her three times while in good health and then died, her ʿ*iddah* is that of a divorced woman, three menstrual periods.”

قَالَ مُحَمَّدٌ : وَبِهَذَا نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٤٧٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا طَلَّقَ الرَّجُلُ امْرَأَتَهُ ثَلَاثاً فِي مَرَضٍ ، فَإِنْ مَاتَ مِن مَرَضِهِ ذَلِكَ قَبْلَ أَنْ يَنْقَضِيَ عِدتُهَا وَرِثَتْ ، وَاعْتَدَّتْ عِدَّةَ الْمُتَوَفَّى عَنْهَا زَوْجُهَا ، وَإِنِ انْقَضَتْ عِدَّتُهَا قَبلَ أَن يَمُوتَ لَمْ تَرِثْهُ ، وَلَمْ يَكُنْ عَلَيْهَا عِدَّةٌ .

474. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man divorces his wife three times during ill health, and then dies in that illness of his before her ʿ*iddah* has expired, she inherits and observes the ʿ*iddah* of a woman whose husband has died. If her ʿ*iddah* expires before he dies, she does not inherit from him and she has no ʿ*iddah* to observe[1393] [as a widow].’”[1394]

قَالَ مُحَمَّدٌ : وَبِهَذَا كُلِّهِ نَأْخُذُ ، إِلَّا فِي خَصْلَةٍ واحدةٍ : إِذَا وَرِثَتْ اعْتَدَّتْ أَبْعَدَ الأَجَلَيْنِ كما وَصَفْتُ لك ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to all of this except in one respect: if she inherits, she observes as ʿ*iddah* the longer of the two terms as I described to you [see 471] and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٤٧٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا اخْتَلَعَتِ المرأةُ من زَوْجِها وَهُوَ مَرِيضٌ ماتَ من مَرَضِه فَلَا مِيرَاثَ لها .

475. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a woman obtains a divorce from her husband while he is ill for a compensation which she pays him [*khul*ʿ] and he dies from his illness, she has no inheritance.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، لِأَنَّهَا هي التي طَلَبَتْ ذَلِكَ من زوجِها ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this because she was the one who sought that of her husband, and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

بَابُ عِدَّةِ المُطَلَّقَةِ الَّتِي قد يَئِسَتْ من الحَيْضِ

143. THE ʿ*IDDAH* OF A DIVORCED WOMAN WHO DESPAIRS OF MENSTRUAL PERIODS

٤٧٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا طَلَّقَ الرَّجلُ امْرَأَتَه وقد يَئِسَتْ من الحَيْضِ اعْتَدَّتْ بالشهور ، فإِنْ هِيَ حَاضَتْ بعدَ ذلك احتسَبَتْ بِمَا مضَى من حَيْضِها الأَوَّلِ .

476. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man divorces his wife and she despairs of having menstrual periods, she observes the ʿ*iddah* by months. Then if after that she menstruates, she must reckon up[1395] whatever has already passed of her first menstruations.’”

قَالَ مُحَمَّدٌ : وَبِهَذَا كلّه نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٤٧٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ : إِذَا طَلَّقَ الرَّجُلُ امْرَأَتَه ، فاعتَدَّتْ شَهْراً أَوْ شهرَيْنِ ، ثُمَّ حاضتْ حَيْضةً أَوْ اثنَتَيْنِ ، ثُمَّ يئِسَتْ ؛ اسْتَقْبَلَتْ الشهورَ ، و إِن حاضَتْ بعدَ ذلكَ ؛ اعتَدَّتْ بما مضَى من الحَيْضِ .

477. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm, ‘If a man divorced his wife and she observed the ʿ*iddah* for a month or two, and menstruated once or twice, and then came to despair [of menstruating again], she must begin with the months afresh. If she menstruates after that, she observes the ʿ*iddah* based on what menstruations there have already been.’”[1396]

قَالَ مُحَمَّدٌ : وَبِهَذَا كلّه نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to all of this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

بَابُ عِدَّةِ المطَلَّقَةِ الَّتِي قد ارْتَفَعَ حَيْضُها

144. THE ʿ*IDDAH* OF THE DIVORCED WOMAN WHOSE MENSTRUATION HAS CEASED

٤٧٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ عَلْقَمَةَ : أنَّهُ طَلَّقَ امْرَأَتَه تطليقةً، فحاضَتْ حَيضةً ، ثُمَّ ارتَفَعَتْ حَيضتُها ثمانيةَ عشرَ شهراً ، ثُمَّ ماتتْ، فذكَرَ ذلك لعبدِ الله بنِ مَسْعُودٍ رَضِيَ الله عَنْه، فقَالَ: هذه امْرَأَةٌ حَبَسَ اللَّهُ عَلَيْك ميرَاثَها ، فكُلْه.

478. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿAlqamah divorced his wife one time[1397] and that she menstruated one time,[1398] and then her menstruation ceased for eighteen months and then she died.[1399] He mentioned that to ʿAbdullāh ibn Masʿūd ؓ and he said, ‘This is a woman whose inheritance Allah kept back for you,[1400] so make use of it.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، تَعْتَدُّ بالحَيْض أبداً حَتَّى تَيْأَسَ من الحَيْض، و تَعْتَدُّ بالشُّهورِ، ويَرِثُها زَوجُها ما كانَتْ في عِدَّة ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعالَى .

Muḥammad said, “We adhere to this. She always observes the ʿ*iddah* according to the menstrual periods until she despairs of menstruating at which point she observes the ʿ*iddah* according to the months. Her husband inherits from her as long as she is in the ʿ*iddah*,[1401] and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

بَابُ عِدَّةِ المطَلَّقَةِ الحامِلِ

145. THE ʿ*IDDAH* OF THE DIVORCED WOMAN WHO IS PREGNANT

٤٧٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ عبدِ الله بن مَسْعُودٍ رَضِيَ الله عَنْهُ أنه قَالَ : نَسَخَتْ سُورَةُ النِّساءِ القُصْرَى كُلَّ عِدَّةٍ فِي القُرَآنِ : ﴿وأُولَاتُ الْأَحْمَالِ أَجَلُهُنَّ أَن يَضَعْنَ حَمْلَهُنَّ﴾ .

479. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm from ʿAbdullāh ibn Masʿūd who said, 'The shorter Sūrat an-Nisā'[1402] abrogates[1403] every other ʿ*iddah* in the Qur'ān: "*The time for women who are pregnant is when they give birth.*"'" (Sūrat aṭ-Ṭalāq: 4)'"[1404]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، إِذَا طُلِّقَتْ أَوْ ماتَ زَوجُها ، فَوَلَدَتْ بعد ذلك بيوم أَوْ أَقَلَّ وأَكْثَرَ انْقَضَتْ عِدَّتُها ، وحَلَّتْ للرِّجالِ من ساعَتِها ، و إن كانَتْ في نِفَاسِها ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ .

Muḥammad said, "We adhere to this. If she is divorced or her husband dies and she gives birth a day or less or more after that, her ʿ*iddah* has expired and she is permissible to men [to marry] at that moment even if she is bleeding in the after birth state, and that is the verdict of Abū Ḥanīfah."

٤٨٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا طَلَّقَ الرجُلُ امْرَأَتَه ثُمَّ أَسقَطَتْ فقدِ انقضَتْ عدَّتُها .

480. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, 'If a man divorces his wife and she then has a miscarriage, her ʿ*iddah* has expired.'"[1405]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، ولا يَكونُ السِّقْطُ عِنْدَنا سِقْطاً حَتَّى يَسْتَبِينَ شيءٌ من خَلْقِه : شَعرٌ ، أَوْ ظُفُر ، أَوْ غيرُ ذلك ، فَإذَا وَضَعَتْ شيئاً لم يَسْتَبِنْ خَلقُه لم تَنْقَضِ بذلك العِدَّة ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ .

Muḥammad said, “We adhere to this. A miscarriage[1406] is not counted as such by us until some of its form is clear, whether hair or nails etc. If she delivers something whose form is unclear, her ʿ*iddah* does not come to an end by means of it. That is the verdict of Abū Ḥanīfah ﵀.”

◆

بَابُ عِدَّةِ الْمُسْتَحَاضَةِ

146. THE ʿ*IDDAH* OF A WOMAN WITH CHRONIC MENSTRUAL BLEEDING

٤٨١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ في الرَّجُلِ يُطَلِّقُ امْرَأَتَه وَهِيَ مستحاضةٌ، قَالَ : تَعْتَدُّ بأيَّامِ أقراءِها ، قَالَ : وكذلك إذَا اسْتُحِيضَتْ بعدَ ما يُطَلِّقُها .

481. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who divorces his wife while she is suffering from chronic menstrual bleeding, ‘She observes the ʿ*iddah* of the days of her [usual] periods.’[1407] He said, ‘It is similar if she begins to have chronic menstrual bleeding after he has divorced her.’”[1408]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah.”

٤٨٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : تَعْتَدُّ الْمُسْتَحَاضَةُ إِذَا طُلِّقَتْ بأيَّامِ أقرائِها . فَإِذَا فَرَغَتْ حَلَّتْ للرِّجالِ .

482. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘The woman with chronic menstrual bleeding when divorced observes the ʿ*iddah* according to the days of her ordinary periods. Then when she has finished, she is permissible to men [in marriage].’”[1409]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ مَن طَلَّقَ ثُمَّ رَاجَعَ فِي العِدَّة

147. SOMEONE WHO DIVORCES AND THEN TAKES HIS WIFE BACK DURING THE ʿ*IDDAH*

٤٨٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ : أَنَّ عُمر بن الْخَطَّابِ رَضِيَ الله عَنْه أَتَتْه امرأةٌ، فقالَتْ : طَلَّقَني زَوَجي ، فَحِضْتُ حَيْضَتَيْن ، ودَخَلْتُ في الثَّالثةِ حَتَّى انقَطَعَ دَمِي ، ودَخَلْتُ مُغْتَسَلي ، ووَضَعْتُ ثَوبي أتاني ، فقَالَ: قد رَاجَعْتُكِ قَبْلَ أن أُفِيضَ عليَّ الماءَ ، فقَالَ عُمر رَضِيَ الله عَنْه لِعبدِ الله بن مَسْعُودٍ رَضِيَ الله عَنْه: قُلْ فِيها ، فقَالَ : يا أميرَ المؤمنين! أَرَاه أَمْلَكَ بِرَجْعَتِها لِأَنَّها حائض بعد ، لم تَحِلَّ لها صلوةٌ ، قَالَ عُمَر رَضِيَ الله عَنْه: وأنا أَرَى ذلك ، فرَدَّها عَلَى زوجِها ، وقَالَ : كُنَيْفٌ مُلوءٌ عِلْماً .

483. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm that a woman came to ʿUmar ibn al-Khaṭṭāb ﵁ and said, “My husband divorced me[1410] and I had two periods and began the third and then my bleeding ceased. I went into my bathroom and took off my clothes, and then he[1411] came to me and said, ‘I take you back,’ before I could pour water on myself.” ʿUmar ﵁ said to ʿAbdullāh ibn

Masʿūd ؓ, “Speak about it.”[1412] He said, “Amīr al-Mu’minin, I think he has more right[1413] to take her back since she is still menstruating and prayer is not permissible to her.” ʿUmar ؓ said, “I think that as well,” and so he returned her to her husband, and said, “A small vessel full of knowledge.”’”[1414] [1415]

قَالَ مُحَمَّدٌ : وَبِهَذَا نَأْخُذُ ، الرَّجُلُ أَحَقُّ بِرَجْعَةِ امْرَأَتِه حَتَّى تَغْتَسِلَ من حَيْضَتِهَا الثَّالِثَة ، فَإِنْ أَخَّرَتِ الغُسْلَ حَتَّى يَمْضِيَ وَقْتُ الصَّلوةِ قد كَانَتْ تَقْدِرُ فيه على الغُسْلِ قبلَ أن تَمْضِيَ فقد انقَطَعَتِ الرَّجْعَة ، وحَلَّتْ للرِّجال ، و وَجَبَتْ عَلَيْهَا الصَّلوة ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. A man has more right to take his wife back up until she has performed *ghusl* after her third menstruation. However, if she delays the *ghusl* until the time of a prayer has passed during which she was able to perform a *ghusl* before it passed, then the right to take her back has expired, and she becomes permissible to other men, and the prayer [she missed] is obligatory upon her. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ مَن طَلَّقَ وراجَعَ ، ولم تَعْلَمْ حَتَّى تَزَوَّجَتْ

148. SOMEONE WHO DIVORCES HIS WIFE AND THEN TAKES HER BACK, BUT SHE DOES NOT LEARN OF IT UNTIL AFTER SHE HAS REMARRIED

٤٨٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّ أَبا كَنَفٍ طَلَّقَ امْرَأَتَه تَطْلِيقَةً، ثُمَّ غابَ، فأَشْهَدَ على رَجْعَتِها ، ولَمْ يَبْلُغْها ذلك حَتَّى تَزَوَّجَتْ، فجاءَ وقد هُيِّئَتْ لِتُزَفَّ إِلَى زوجِها ، فأتى عُمرَ بنَ الْخَطَّاب رَضِيَ الله عَنْه، فذَكَرَ ذَلِكَ لَهُ، فكَتَبَ إِلَى عامِلِه: أَنْ أَدْرِكْها ، فإِنْ وَجَدْتَها ولَمْ يَدْخُلْ بِها فهو أَحَقُّ بها ، وإِنْ وَجَدْتَها وقد دَخَلَ بها فهِيَ امرأتُه، قَالَ : فوَجَدَها ليلةَ البناءِ، فوَقَعَ عَلَيْها ، وغدَا إِلَى عاملِ عُمَرَ رَضِيَ الله عَنْه، فأَخبَرَه، فعَلِمَ أَنَّه جاء بأمرٍ بَيِّنٍ.

484. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that Abū Kanf[1416] divorced his wife once[1417] and then absented himself.[1418] Then he had his act of taking her back witnessed,[1419] but that did not reach her until she had remarried. When he returned she was preparing to be conducted[1420] to her [new] husband. He[1421] went to ʿUmar ibn al-Khaṭṭāb ؓ and mentioned that to him, and he wrote to his governor,[1422] ‘Go to her and if you find[1423] that he has not consummated the marriage,[1424] then he[1425] has more right to her. However, if you find her and he has already consummated the marriage with her,[1426] she is his wife.’”[1427] He said, “He discovered her[1428] on the night she was to be conducted [to her new husband] and he[1429] had sexual intercourse with her. Then he went to ʿUmar’s governor and told him and he realised that the matter was clear.”[1430]

٤٨٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنا حَمَّادٌ عَنْ إِبْرَاهِيمَ، عَنْ عليٍّ بنِ أَبِي طَالِبٍ رَضِيَ الله عَنْه أنه كان يقوْلُ : إِذا طَلَّقَ الرَّجُلُ امْرَأَتَه، ثُمَّ أَشْهَدَ على رجعَتِها قبلَ أَنْ تَنْقَضِيَ عِدَّتُها ، ولم يُعْلِمْهَا ذلكَ حَتَّى انْقَضَتْ عِدَّتُها ، و تَزَوَّجَتْ فإنه يُفَرَّقُ بينَها وبينَ زَوجِها الآخَرِ، ولَهَا الصَّداقُ بما اسْتَحَلَّ من فَرْجِهَا ، وهيَ امْرَأَةُ الأَوَّلِ، تُرَدُّ إليه ، ولا يَقْرَبُها حَتَّى تَنْقَضِيَ عِدَّتُها من الآخَرِ .

485. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm that ʿAlī ibn Abī Ṭālib ؓ used to say, “If a man divorces his wife and then has his taking her back witnessed before the expiry of her ʿ*iddah* but without making her aware of that before the expiry of her ʿ*iddah* and her remarriage, in that case she is to be separated from her second husband, she has the dowry because of his having sexual intercourse with her, and she remains the wife of the former[1431] and is returned to him. However, he may not approach her until her ʿ*iddah* from the other man expires.”’”[1432]

قَالَ مُحَمَّدٌ : وبقَوْلِ عليّ رَضِيَ الله عَنْه نَأْخُذُ ، وَهُوَ أَعْجَبُ إلينا من القَوْلِ الأَوّلِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعالَى .

Muḥammad said, “We adhere to the verdict of ʿAlī ؓ, and it is preferable to us than the former verdict. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ مَن طَلَّقَ ثَلاثاً أَوْ طَلَّقَ واحدةً وَهُوَ يريد ثَلَاثاً

149. SOMEONE WHO DIVORCES THREE TIMES OR DIVORCES ONCE BUT INTENDING THREE TIMES

٤٨٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ عبدِ الله بن عبدِ الرحمن بن أَبي حُسَيْنٍ عَنْ عَمْرِو بنِ دينارٍ عَنْ عطاءٍ عَنْ ابن عباسٍ رَضِيَ الله عَنْهما قَالَ : أَتاه رجُلٌ فقَالَ : إني طَلَّقْتُ امرأتِي ثَلَاثاً ، قَالَ : يَذْهَبُ أَحَدُكم ، فيتلطَّخُ بالنَّتْنِ ، ثُمَّ يأتينا ، إذْهَبْ ، فقد عَصَيْتَ رَبَّكَ ، وقد حَرُمَتْ عَلَيْكَ امرَأَتُك ، لا تَحِلُّ لَكَ حَتَّى تَنْكِحَ زوجاً غيرَكَ .

486. Muḥammad said, “Abū Ḥanīfah informed us from ʿAbdullāh ibn ʿAbd ar-Raḥmān ibn Abī Ḥusayn from ʿAmr ibn Dīnār from ʿAṭā’ from Ibn ʿAbbās ؓ. He [ʿAṭā’] said, ‘A man came to him [Ibn ʿAbbās] and said, “I divorced my wife three times.” He said, “One of you goes and dirties

himself with something putrid and then comes to us! Go away, for you have disobeyed your Lord,[1433] and your wife is forbidden to you, and is not permissible to you until she has married a husband other than you.”’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى وقَوْلُ العامَّةِ ، لا اختلافَ فيه .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him, and of people in general, about which there is no disagreement.”[1434]

٤٨٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ في الَّذي يطَلِّقُ واحدةً وَهُوَ ينوي ثَلاثاً ، أَوْ يُطَلِّقُ ثَلاثاً وَهُوَ ينوي واحدةً ، قَالَ : إِنْ تكَلَّمَ بواحدةٍ فهيَ واحدةٌ ، وليسَتْ نِيَّتُه بشيءٍ ، وإن تَكَلَّمَ بثلاثٍ كانَتْ ثَلاثاً ، وليسَتْ نيتُه بشيءٍ .

487. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a person who divorces once intending it as three times or divorces three times intending once, ‘If he says once then it is once, and his intention is nothing. If he says it three times it is three times, and his intention is nothing.’”

قَالَ مُحَمَّدٌ : بِهذا كله نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to all of this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ الرَّجْعَةِ فِي الطَّلاقِ

150. TAKING BACK A WIFE ONE HAS DIVORCED

٤٨٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا طَلَّقَ الرَّجُلُ امْرَأَتَه طَلاقًا يَمْلِكُ الرَّجْعَةَ فِيهِ فَلَهَا أَنْ تَشَوَّفَ رَجَاءً أَنْ يُرَاجِعَهَا ، وَإِنْ كَانَ لا يَمْلِكُ رَجْعَتَهَا ، وَالمُتَوَفَّى عَنْهَا زَوْجُهَا فَلَيْسَ لَهَا أَنْ تَشَوَّفَ ، وَلَا تَلْبَسُ الْمُعَصْفَرَ ، وَتَتَّقِي الْكُحْلَ وَالطِّيبَ إِلَّا مِن أَذًى .

488. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man divorces his wife retaining the right to take her back, then she may deck herself[1435] out hoping that he will take her back. However, if he has not retained the right to take her back, or in the case of a woman whose husband has died, then she may not deck herself out, nor dress in clothes dyed yellow, and she has to avoid using kohl and perfume except for medicinal purposes.’”[1436]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٤٨٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا لَمَسَ الرَّجُلُ امْرَأَتَه من شَهْوَةٍ فِي عِدَّتِهَا فَتِلْكَ مُرَاجِعَةٌ ، وإِذَا قَبَّلَهَا فِي عِدَّتِهَا فَتِلْكَ مُرَاجِعَةٌ .

489. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man fondles[1437] his wife out of sexual appetite during her ʿ*iddah*, that is his taking her back, and if he kisses her during her ʿ*iddah*, that is his taking her back.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ الرَّجُلِ يُطَلِّقُ الأَمَةَ طَلاقًا يَمْلِكُ الرَّجْعَةَ

151. A MAN WHO DIVORCES A SLAVE WOMAN WITH A DIVORCE IN WHICH HE RETAINS THE RIGHT TO TAKE HER BACK

٤٩٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا طَلَّقَ الأَمَةَ زَوْجُهَا طَلاقًا يَمْلِكُ الرَّجْعَةَ فَأُعْتِقَتْ فَعِدَّتُهَا عِدَّةُ الْحُرَّةِ ، وَإِنْ كَانَ الزَّوْجُ لا يَمْلِكُ الرَّجْعَةَ فَعِدَّتُهَا عِدَّةُ الأَمَةِ .

490. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a slave woman is divorced by her husband with him retaining the right to take her back, and then she is set free, her ʿ*iddah* is that of a free woman. But if her husband does not retain the right to take her back, her ʿ*iddah* is that of a slave woman.’”[1438]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ الْخُلْعِ

152. DIVORCE OBTAINED BY A WOMAN IN RETURN FOR COMPENSATION PAID TO THE HUSBAND (*KHUL*ʿ)

٤٩١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : كُلُّ طَلاقٍ أُخِذَ عَلَيْهِ جُعْلٌ فَهُوَ بَائِنٌ لا يَمْلِكُ الرَّجْعَةَ .

491. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Every divorce for which compensation[1439] is accepted is final and the right to take the wife back is not retained.’”[1440]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ الْعِنِّينِ

153. IMPOTENCE

٤٩٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الْعِنِّينِ إِذَا فُرِّقَ بَيْنَهُ
وَبَيْنَ امْرَأَتِهِ : أَنَّهَا تَطْلِيقَةٌ بَائِنٌ .

492. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning someone who is impotent[1441] and has been separated from his wife that it[1442] is a final divorce.”[1443] [1444]

٤٩٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا إِسْمَاعِيلُ بْنُ مُسْلِم الْمَكِّيُّ عَنِ
الْحَسَنِ عَنْ عُمَرَ بْنِ الْخَطَّابِ رَضِيَ الله عَنْه : أَنَّ امْرَأَةً أَتَتْهُ فَأَخْبَرَتْهُ أَنَّ زَوْجَهَا لا يَصِلُ
إِلَيْهَا ، فَأَجَّلَه حَوْلاً . فَلَمَّا انْقَضَى الْحَوْلُ وَلَمْ يَصِلْ إِلَيْهَا خَيَّرَهَا ، فَاخْتَارَتْ نَفْسَهَا ،
فَفَرَّقَ بَيْنَهُمَا عُمَرُ رَضِيَ الله عَنْه وَجَعَلَهَا تَطْلِيقَةً بَائِنًا .

493. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ismāʿīl ibn Muslim al-Makkī narrated to us from al-Ḥasan from ʿUmar ibn al-Khaṭṭāb رضي الله عنه that a woman came to him and told him that her husband was unable to unite with her [in sexual intercourse] and so he set him a term of a year.[1445]

When the year had passed and he had not united with her, he gave her the choice and she chose herself. So ʿUmar ﵁ separated them and made the divorce final.”[1446]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ الرَّجُلِ يُطَلِّقُ ثُمَّ يَجْحَدُ

154. A MAN WHO DIVORCES AND THEN DENIES IT

٤٩٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي امْرَأَةٍ سَمِعَتْ أَنَّ زَوْجَهَا طَلَّقَهَا ثَلَاثاً ، قَالَ : تُخَاصِمُه ، فَإِنْ هُوَ حَلَفَ مَا فَعَلَ افْتَدَتْ بِمَالِهَا ، فَإِنْ أَبِى أَنْ يَقْبَلَ بِمَالِهَا هَرَبَتْ ، فَإِنْ قَدَرَ عَلَيْهَا لَمْ تَأْتِهِ إِلَّا مَغْضُوبَةً مَقْهُورَةً ، وَتَسْتَذْفِرُ ، وَلَا تَشَوَّفُ ، وَلَا تَطَيَّبُ .

494. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a woman who heard that her husband had divorced her three times,[1447] ‘She opens litigation against him, and if he swears an oath that he did not do it, she ransoms herself[1448] [from him] with her own wealth. If he refuses her wealth, she should flee. Then if he has power over her, she should only come to him angered against him[1449] and against her will. She should allow herself to become foul smelling[1450] and should not deck herself out[1451] nor perfume herself.’”[1452]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

بَابُ مَنْ طَلَّقَ لَاعِباً

155. SOMEONE WHO DIVORCES AS A JOKE

٤٩٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ ابن مَسْعُودٍ رَضِيَ
اللهِ عَنْه أَنَّهُ قَالَ : لَعِبُ النِّكَاحِ وَجِدُّه سَوَاءٌ ، كَمَا أَنَّ لَعِبَ الطَّلَاقِ وَجِدَّه سَوَاءٌ .

495. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that Ibn Masʿūd ؓ said, ‘Marrying, whether in jest or in earnest, is all the same, just as divorce, whether in jest or in earnest,[1453] is all the same.’”[1454]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى : أَرْبَعٌ جِدُّهُنَّ جِدٌّ ،
وَهَزْلُهُنَّ جِدٌّ : الطَّلَاقُ ، وَالنِّكَاحُ ، وَالرَّجْعَةُ ، وَالْعِتَاقُ .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him: ‘There are four things which if they are done with serious intent it is serious intent and if they are done in jest it is [still] serious intent: divorce, marriage, taking a divorced woman back, and settings slaves free.’”

بَابُ الطَّلَاقِ الْبَتَّةَ

156. IRREVOCABLE DIVORCE

٤٩٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الْخَلِيَّةِ ، وَالْبَرِيَّةِ ، وَالْبَائِنِ ، وَالْبَتَّةِ : إِنْ نَوَى طَلَاقًا فَهُوَ مَا نَوَى ، وَإِنْ نَوَى ثَلَاثًا فَثَلَاثٌ ، وَإِنْ نَوَى وَاحِدَةً فَواحِدَةٌ بَائِنٌ ، وَهُوَ خَاطِبٌ ، وَإِنْ لَمْ يَنْوِ طَلَاقًا فَلَيْسَ بِشَيْءٍ .

496. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning the [man who uses terms such as] *khaliyyah* (a woman set free),[1455] *bariyyah*[1456] (a woman from whom one has declared oneself quit), *bā’in* (in a state of final separation) and *battah* (irrevocable),[1457] ‘If he intended divorce, it is what he intended. If he intended three,[1458] three it is. If he intended one divorce, it is one final (*bā’in*) divorce and he may be a suitor [because it is not irrevocable if *bā’in*]. If he did not intend a divorce, it is nothing.’”[1459]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٤٩٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ : أَنْ عُرْوَةَ بْنَ الْمُغِيرَةِ ابْتُلِيَ بِهَا وَهُوَ أَمِيرُ الْكُوفَةِ ، فَأَرْسَلَ إِلَى شُرَيْحٍ وَقَالَ : قُلْ فِي رَجُلٍ قَالَ لِامْرَأَتِهِ : أَنْتِ طَالِقٌ الْبَتَّةَ ، فَقَالَ : قَالَ فِيهَا عُمَرُ رَضِيَ اللهُ عَنْهُ : وَاحِدَةٌ ، وَهُوَ أَمْلَكُ بِهَا ، وَقَالَ : قَالَ عَلِيُّ بْنُ أَبِي طَالِبٍ رَضِيَ اللهُ عَنْهُ : هِيَ ثَلَاثٌ . قَالَ : قُلْ فِيهَا أَنْتَ . قَالَ : قَدْ قَالَا فِيهَا ، قَالَ : أَعْزِمُ عَلَيْكَ إِلَّا قُلْتَ فِيهَا ، قَالَ شُرَيْحٌ : أَرَى قَوْلَهُ : ﴿ أَنْتِ طَالِقٌ ﴾ طَلَاقًا قَدْ خَرَجَ ، وَأَرَى قَوْلَهُ : ﴿ الْبَتَّةَ ﴾ بِدْعَةً ، قِفْ عِنْدَ بِدْعَةٍ ، فَإِنْ نَوَى ثَلَاثًا فَثَلَاثٌ ، وَإِنْ نَوَى وَاحِدَةً فَوَاحِدَةٌ بَائِنٌ ، وَهُوَ خَاطِبٌ .

497. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿUrwah ibn al-Mughīrah was tried by it[1460] when he was amir of Kufa and so he sent a message to Shurayḥ[1461] saying,[1462] ‘Give your

verdict on a man who said to his wife, “You are irrevocably divorced (*battah*).”’ He said,[1463] ‘ʿUmar رضي الله عنه said about it that it is a single divorce and that he retains the right to take her back.’ He said, ‘ʿAlī ibn Abī Ṭālib رضي الله عنه said that it is three [divorces].’ He said, ‘You give your own verdict.’ He said, ‘Both of them have already given their verdicts on it.’[1464] He said, ‘I demand that you give your verdict on it.’ Shurayḥ said, ‘I think that his saying, “You are divorced,” is a divorce which has been expedited, and I think that his saying ‘irrevocably’ is an innovation and that one should consider this innovation,[1465] and if he intended three [divorces], three it is, and if he intended a single [divorce], it is a single final [divorce], and he is a suitor [if he wishes].’”[1466]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

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بَابُ مَنْ كَتَبَ بِطَلَاقِ امْرَأَتِهِ

157. SOMEONE WHO WRITES ABOUT DIVORCING HIS WIFE

٤٩٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا كَتَبَ إِلَيْهَا زَوْجُهَا بِطَلَاقِهَا وَهُوَ يَنْوِي الطَّلَاقَ فَهِيَ طَالِقٌ حِينَ كَتَبَهُ .

498. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If her husband writes to her about her divorce intending divorce then she is divorced from the moment he writes it.’”

قَالَ مُحَمَّدٌ : إِنْ كَانَ كَتَبَ إِلَيْهَا : إِذَا جَاءَكِ كِتَابِي هَذَا فَأَنْتِ طَالِقٌ لَمْ تُطَلَّقْ حَتَّى يَأْتِيهَا الْكِتَابُ ، وَإِنْ كَانَ كَتَبَ : أَمَّا بَعْدُ فَأَنْتِ طَالِقٌ ، فَهِيَ طَالِقٌ حِينَ كَتَبَ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “If he had written to her, ‘When this letter of mine reaches you, you are divorced,’ then she is not divorced until the letter reaches her. If he had written, ‘To proceed; you are divorced,’ then she is divorced at the instant he wrote the letter, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٤٩٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يَكْتُبُ إِلَى امْرَأَتِه : إِذَا جَاءَكِ كِتَابِي هَذَا فَأَنْتِ طَالِقٌ ، قَالَ : فَإِنْ أَتَاهَا الْكِتَابُ فَهِيَ طَالِقٌ يومَ يَأْتِيهَا ، وَإِنْ ضَاعَ الْكِتَابُ أَوْمُحِيَ فَلَيْسَ بِشَيْءٍ ، وَإِنْ كَتَبَ : أَمَّا بَعْدُ فَأَنْتِ طَالِقٌ ، فَإِنَّ الطَّلاقَ يَوْمَ كَتَبَه .

499. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm spoke concerning a man who writes to his wife, ‘When this letter of mine reaches you, you are divorced,’ and he said, ‘If the letter reaches her, she is divorced on the day it reaches her. If the letter goes missing or is erased, then it is nothing [it is not a divorce]. If he wrote to her, ‘To proceed; you are divorced,’ the divorce takes place on the day he wrote it.’”

قَالَ مُحَمَّدٌ وَبِهَذَا كُلِّه نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to all of this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ طَلاقِ الْمُبَرْسَمِ وَالنَّشْوَانِ وَالنَّائِمِ

158. THE DIVORCE OF THE PERSON SUFFERING FROM PLEURISY, THE INEBRIATED PERSON AND THE PERSON ASLEEP

٥٠٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : لَيْسَ طَلاقُ الْمُبَرْسَمِ بِشَيْءٍ حَتَّى يُفِيقَ .

500. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘The divorce of someone suffering pleurisy[1467] is not counted as anything until they recover consciousness.’”[1468]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، إِذَا كَانَ لا يَعْقِلُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this if he had not grasped [what he was doing][1469] and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٥٠١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : طَلاقُ النَّشْوَانِ جَائِزٌ .

501. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘The divorce of the inebriated person[1470] is valid.’”[1471]

٥٠٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا الْهَيْثَمُ عَنِ الشَّعْبِيِّ عَنْ شُرَيْحٍ قَالَ : طَلاقُ السَّكْرَانِ جَائِزٌ .

502. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Al-Haytham narrated to us from ash-Shaʿbī from Shurayḥ who said, “The divorce of the inebriated person is valid.”’”[1472]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٥٠٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : قَالَ إِبْرَاهِيمُ لَيْسَ طَلَاقُ النَّائِمِ بِشَيْءٍ .

503. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that Ibrāhīm said, ‘The divorce someone [pronounces while] asleep is nothing.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٥٠٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّهُ قَالَ فِي السَّكْرَانِ : عِتْقُهُ وَطَلَاقُهُ وَبَيْعُهُ جَائِزٌ .

504. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that he said concerning someone inebriated, ‘His freeing slaves, his divorcing and his sale are valid.’”[1473]

قَالَ مُحَمَّدٌ : وَبِهَذَا كُلِّهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to all of this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ مَنْ أَجْبَرَهُ السُّلْطَانُ عَلَى طَلَاقٍ أَوْ عِتَاقٍ

159. SOMEONE WHOM THE RULER FORCES TO PRONOUNCE DIVORCE OR TO FREE A SLAVE

٥٠٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يُجْبِرُهُ السُّلْطَانُ عَلَى الطَّلاقِ أَوِ الْعَتَاقِ ، فَيُطَلِّقُ أَوْ يُعْتِقُ وَهُوَ كَارِهٌ ، قَالَ : هُوَ جَائِزٌ عَلَيْهِ ، وَلَوْ شَاءَ اللَّهُ لَابْتَلَاهُ بِمَا هُوَ أَشَدُّ مِن ذَلِكَ ، وَقَالَ : يَقَعُ كَيْفَ مَا كَانَ .

505. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man whom the ruler forces to pronounce divorce or to free a slave and then he pronounces divorce or sets a slave free against his will, ‘It is valid for him,[1474] and if Allah had wished He would have tested him with something worse than that.’ And he said, ‘It takes effect however it was.’”[1475]

قَالَ مُحَمَّدٌ : وَبِهَذَا كُلِّهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to all of this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ مَا يُكْرَهُ مِنَ الطَّلاقِ

160. WHAT TYPES OF DIVORCE ARE DEPLORED

٥٠٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي قَوْلِ اللَّهِ تَعَالَى : ﴿ وَلَا تُمْسِكُوهُنَّ ضِرَارًا ﴾ قَالَ : يُطَلِّقُ الرَّجُلُ تَطْلِيقَةً ، ثُمَّ يَدَعُهَا حَتَّى إِذَا حَاضَتْ ثَلَاثَ حِيَضٍ قَبْلَ أَنْ تَفْرُغَ مِنَ الثَّالِثَةِ ، ثُمَّ يَقُولُ لَهَا : قَدْ رَاجَعْتُكِ ، ثُمَّ يَفْعَلُ ذَلِكَ بِهَا حَتَّى يَحْبِسَهَا تِسْعَ حِيَضٍ قَبْلَ أَنْ تَحِلَّ لِلرِّجَالِ ، فَهَذَا الضِّرَارُ .

506. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm spoke concerning the words of Allah, exalted is He, ‘*Do not retain them in such a way as to cause them injury,...*’ (Sūrat al-Baqarah: 229) and he said, ‘[It is when] a man divorces once, then leaves her until she has menstruated three times but just before she has completed the third time he says to her, “I take you back,” doing that to her until he has kept her for nine menstrual periods before she is permissible for marriage to men. This is done in such a way as to cause injury.’”

قَالَ مُحَمَّدٌ لَسْنَا نَرى لَهُ أَنْ يَصْنَعَ هَذَا وَأَنْ يُطَوِّلَ عَلَيْهَا الْعِدَّةَ .

Muḥammad said, “We do not think that he has any right to do this and lengthen the ʿ*iddah* for her.”

٥٠٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ قَالَ : لَيْسَ شَيْءٌ مِمَّا أَحَلَّ اللَّهُ أَبْغَضَ إِلَى اللَّهِ من الطَّلاقِ .

507. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm who said, “There is nothing which Allah permits that is more hateful to Allah than divorce.”’”[1476]

◈

بَابُ مَنْ قَالَ : إِنْ تَزَوَّجْتُ فُلَانَةً فَهِيَ طَالِقٌ

161. SOMEONE WHO SAYS, “IF I MARRY SO-AND-SO THEN SHE IS DIVORCED.”

٥٠٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ مُحَمَّدِ بن قَيْس عَنْ إِبْرَاهِيمَ وَعَامِرٍ عَنِ الأَسْوَدِ بْنِ يَزِيدَ : أنهُ قَالَ لامْرَأَةٍ ذُكِرَتْ لَهُ : إِنْ تَزَوَّجْتُهَا فَهِيَ طَالِقٌ ، فَلَمْ يَرَ الأَسْوَدُ ذَلِكَ شَيْئًا ، وَسُئِلَ أَهْلُ الْحِجَازِ فَلَمْ يَرَوْا ذَلِك شَيْئًا ، فَتَزَوَّجَهَا وَدَخَلَ بِهَا ، فَذَكَرَ ذَلِك لِعَبْدِ اللَّهِ بْنِ مَسْعُودٍ رَضِيَ الله عَنْهُ فَأَمَرَه أَنْ يُخْبِرَهَا أنَّهَا أَمْلَكُ بِنَفْسِهَا .

508. Muḥammad said, “Abū Ḥanīfah informed us from Muḥammad ibn Qays[1477] from Ibrāhīm from ʿĀmir that al-Aswad ibn Yazīd said concerning a woman who was mentioned to him, ‘If I marry her,[1478] she is divorced.’ Al-Aswad did not think that it was anything. He asked the people of the Ḥijāz and they did not think that it was anything. So he married her and consummated the marriage with her. That was mentioned to ʿAbdullāh ibn Masʿūd ؓ and he told him to tell her[1479] that she had more right to herself.”

قَالَ مُحَمَّدٌ : وبِقَوْلِ عبدِ الله بن مَسْعُودٍ رَضِيَ الله عَنْه نَأْخُذُ ، وَنَرَى لَهَا صَدَاقًا نِصْفَ صَدَاقِ الَّذِي تَزَوَّجَهَا عَلَيْهِ ، وَصَدَاقُ مِثْلِهَا بِدُخُولِه بِهَا ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ .

Muḥammad said, “We adhere to the verdict of ʿAbdullāh ibn Masʿūd ؓ. We think that she has a dowry which is a half of the dowry for which he married her, or the dowry of someone her equal[1480] if he consummated the marriage with her, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ النَّصْرَانِيِّ وَالْيَهُودِيِّ وَالْمَجُوسِيِّ يُطَلِّقُونَ نِسَائَهُمْ

162. CHRISTIANS, JEWS AND ZOROASTRIANS WHO DIVORCE THEIR WIVES

٥٠٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الْيَهُودِيِّ وَالنَّصْرَانِيِّ وَالْمَجُوسِيِّ يُطَلِّقُونَ نِسَائَهُمْ ثُمَّ يُسْلِمُونَ ، قَالَ : هُمْ عَلَى طَلَاقِهِمْ ، لَمْ يَزِدْهُمُ الإِسْلَامُ إِلَّا شِدَّةً .

509. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning Jews, Christians and Zoroastrians who divorce

their wives[1481] and then subsequently accept Islam, ‘They remain in their condition of being divorced.[1482] Islam only increases them in rigour.’”[1483]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ عِدَّةِ الْمُطَلَّقَةِ وَالْمُتَوَفَّى عَنْهَا زَوْجُهَا

163. THE ʿ*IDDAH* OF THE DIVORCED WOMAN AND THE WOMAN WHOSE HUSBAND HAS DIED

٥١٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنا حَمَّادٌ عَنْ إِبْرَاهِيمَ : أَنَّ عَلِيَّ بْنَ أَبِي طَالِبٍ رَضِيَ الله عَنْه نَقَلَ أُمَّ كُلْثُومٍ بِنْتَ عَلِيٍّ (امْرَأَةَ عُمَرَ بْنِ الْخَطَّابِ رَضِيَ الله عَنْه) وَهِيَ فِي الْعِدَّةِ من وَفَاتِ زَوْجِهَا عُمَرَ رَضِيَ الله عَنْه : لِأَنَّهَا كَانَتْ فِي دَارِ الإِمَارَةِ .

510. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm that ʿAlī ibn Abī Ṭālib ﵇ moved[1484] Umm Kulthūm bint ʿAlī (the wife of ʿUmar ibn al-Khaṭṭāb ﵇) while she was in her ʿ*iddah* after the death of her husband ʿUmar ﵇, because she had been in the house of the amirate.’”[1485] [1486]

٥١١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : تَعْتَدُّ الْمُتَوَفَّى عَنْهَا زَوْجُهَا من يَوْمِ مَاتَ عَنْهَا زَوْجُهَا ، وَالْمُطَلَّقَةُ من يَوْمِ طَلَّقَهَا .

511. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘A woman whose husband has died observes the ʿ*iddah* from the day when her husband died,[1487] and a divorced woman from the day he divorced her.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٥١٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ : أَنَّ الْمُتَوَفَّى عَنْهَا زَوْجُهَا لَا تَخْرُجُ مِن مَنْزِلِهَا إِلَّا فِي حَقٍّ لَا بُدَّ مِنْهُ ، وَلَكِنْ لَا تَبِيتُ دُونَ مَنْزِلِهَا ، فَإِنَّ عَبْدَ اللَّهِ بْنَ مَسْعُودٍ رَضِيَ اللهُ عَنْهُ رَدَّهُنَّ مِنَ النَّجَفِ خَرَجْنَ حِجَاجاً فِي الْعِدَّةِ .

512. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm that a woman whose husband has died does not come out of her house except for some unavoidable exigency.[1488] She must only spend the night in her house, as ʿAbdullāh ibn Masʿūd ﵁ returned those who had come from Najaf to perform the Hajj during their ʿ*iddah*.’”[1489]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٥١٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ : أَنَّ الْمُطَلَّقَةَ لَا تَخْرُجُ مِن بَيْتِهَا فِي حَقٍّ وَلَا بَاطِلٍ حَتَّى تَنْقَضِيَ عِدَّتُهَا ، وَ أَنَّ الْمُتَوَفَّى عَنْهَا زَوْجُهَا تَخْرُجُ فِي حَقِّ الَّذِي لَا بُدَّ مِنْهُ ، وَلَكِنْ لَا يَبِيتَنَّ دُونَ مَنْزِلِهَا .

513. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that a divorced woman may not leave her house whether for something true and worthy or for something false until her ʿ*iddah* has expired, and that a woman whose husband has died may leave for unavoidable exigencies, but she must not spend the night anywhere but in her own house.”[1490]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، لِأَنَّ الْمُطَلَّقَةَ نَفَقَتُهَا وَاجِبَةٌ عَلَى زَوْجِهَا ، فَلَيْسَتْ تَحْتَاجُ إِلَى
الْخُرُوجِ ، وَأَمَّا الْمُتَوَفَّى عَنْهَا زَوْجُهَا فَلَا نَفَقَةَ لَهَا ، فَلَا بُدَّ لَهَا مِن الْخُرُوجِ تَطْلُبُ مِن فَضْلِ
اللَّهِ ، وَلَا تَبِيتُ غَيْرَ بَيْتِهَا ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this, because a divorced woman’s maintenance is obligatory upon her husband so she has no need to go out. As for a woman whose husband has died, she has no maintenance, and she must necessarily go out to seek Allah’s bounty. However, she may not spend the night anywhere but in her own house. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ الِاسْتِثْنَاءِ فِي الطَّلَاقِ

164. MAKING EXCEPTIONS IN PRONOUNCEMENTS OF DIVORCE

٥١٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حدثنا حَمَّادٌ عَنْ إِبْرَاهِيمَ فِي رَجُلٍ قَالَ
لِامْرَأَتِهِ : أَنْتِ طَالِقٌ ثَلَاثًا إِنْ شَاءَ اللَّهُ ، قَالَ : لَيْسَ بِشَيْءٍ ، وَلَا يَقَعُ عَلَيْهَا الطَّلَاقُ .

514. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm concerning a man who said to his wife, “You are thrice divorced inshā’Allāh.”[1491] He said, “It is nothing[1492] and divorce is not expedited against her.”’”[1493]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

بَابُ الرَّجُلِ يَقُولُ لامْرَأَتِهِ : اعْتَدِّي

165. A MAN WHO SAYS TO HIS WIFE, “OBSERVE THE ʿ*IDDAH*!”

٥١٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : اعْتَدِّى ، فَهِيَ تَطْلِيقَةٌ يَمْلِكُ الرَّجْعَةَ إِذَا نَوَى طَلَاقًا .

515. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘“Observe the ʿ*iddah*!” is a divorce in which one retains the right to take her back[1494] if he intended divorce.’”[1495]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٥١٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا الْهَيْثَمُ بْنُ أَبِي الْهَيْثَمِ يَرْفَعُه الَي رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنَّهُ قَالَ لِسَوْدَةَ رَضِيَ الله عَنْها : اعْتَدِّى ، فَجَعَلَهَا تَطْلِيقَةً يَمْلِكُهَا ، فَجَلَسَتْ عَلَى طَرِيقِهِ يَوْمًا ، فَقَالَتْ : يَا رَسُولَ اللَّهِ : رَاجِعْنِي ، فَوَاللَّهِ مَا أَقُولُ هَذَا حِرْصًا مِنِّي عَلَى الرِّجَالِ ، وَلَكِنِّي أُرِيدُ أَنْ أُحْشَرَ يَوْمَ الْقِيَامَةِ مَعَ أَزْوَاجِكَ ، وَأَجْعَلُ يَوْمِي مِنكَ لِبَعْضِ أَزْوَاجِكَ ، قَالَ : فَرَاجَعَهَا .

516. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Al-Haytham ibn Abī’l-Haytham narrated to us, ascribing it to the Messenger of Allah ﷺ, that he said to Sawdah, “Observe the ʿ*iddah*!” and he made it a single divorce in which he retained [the right to take her back]. So one day, she sat in his path and said, “Messenger of Allah, take me back, for by Allah! I am not saying this out of eagerness on my part[1496] for men, but I want to be

gathered on the Day of Rising along with your wives, and I will appoint my day with you for one of your wives.”[1497] So he took her back.’”[1498]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، إِذَا طَابَتْ نَفْسُ الْمَرْأَةِ أَنْ تُقِيمَ مَعَ زَوْجِهَا عَلَى أَنْ لا يُقْسِمَ لَهَا فَذَلِكَ جَائِزٌ ، وَلَهَا أَنْ تَرْجِعَ عَنْ ذَلِكَ إِذَا بَدَا لَهَا ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. If a woman herself is contented to remain with her husband on the basis that he does not apportion her [a day], then that is valid, but she may change her mind about that if it occurs to her, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ عِدَّةِ أُمِّ الْوَلَدِ

166. THE ʿ*IDDAH* OF THE *UMM WALAD*[1499]

٥١٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي أُمِّ الْوَلَدِ يَمُوتُ عَنْهَا سَيِّدُهَا قَالَ : إِنْ كَانَتْ تَحِيضُ فَثَلاثُ حِيَضٍ ، وَإِنْ كَانَتْ لا تَحِيضُ فَثَلاثَةُ أَشْهُرٍ ، وَكَذَلِكَ إِذَا أَعْتَقَهَا .

517. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning an *umm walad* whose master dies, ‘If she is menstruating, [her ʿ*iddah* is] three menstruations, but if she does not menstruate, then three months. It is similar if he sets her free.’”[1500]

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

518. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm concerning the miscarriage of a child[1501] which a slave woman had by her master, that he said, “As long as a finger, eye or mouth cannot be clearly discerned in it, then she is not set free and she does not by that become an *umm walad*.”’”

image

Muḥammad said, “We adhere to this: when anything of its form is clear then on that basis she is an *umm walad*. If nothing of its form is clear, then on that basis she is not an *umm walad*, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

بَابُ نَفَقَةِ الَّتِي لَمْ يَدْخُلْ بِهَا

167. THE MAINTENANCE OF A WOMAN WITH WHOM MARRIAGE HAS NOT BEEN CONSUMMATED

image

519. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm spoke concerning a man who marries a woman but does not consummate the marriage with her and he said, ‘If the self-restraint is on the side of the man, he has to pay maintenance,[1502] but if it is on the side of the woman, she has no maintenance.’”[1503]

image

Muḥammad said, “We adhere to this. If she is young, of such an age that the like of her does not have sexual intercourse, she has no maintenance. However, if she is adult and the husband is young, of such an age that the like of him does not have sexual intercourse, then he owes her maintenance from his property. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

168. THE WOMAN DIVORCED AT HER OWN REQUEST FOR COMPENSATION, WHICH SHE PAYS (*KHULʿ*)

520. Muḥammad said, “Abū Ḥanīfah informed us from al-Haytham ibn Abī’l-Haytham from ʿUmar ibn al-Khaṭṭāb who said, ‘If she were to obtain divorce by paying in compensation the string with which she ties her hair, that would be valid.’”[1504]

Muḥammad said, “We adhere to this. Whatever she pays to obtain her divorce, even if it were her entire wealth,[1505] that is acceptable in settlement.”[1506]

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

521. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If the wrongdoing is on the part of the woman, it is permissible for you to accept the ransom. However, if it is on the part of the man, it is not permissible for him to take the ransom.’”

Muḥammad said, “We adhere to this. It is not desirable for him[1507] to take any more than what he gave her, but if he does do that, it is valid in settlement.”

522. Muḥammad said, “Abū Ḥanīfah informed us from ʿUmārah or ʿAmmār or Abū ʿAmmār[1508] (the doubt was on the part of Muḥammad) from his father from ʿAlī ibn Abī Ṭālib who said, ‘Only take from her in

a *khulʿ* divorce what you have given her, because there is no good[1509] in more [than that].’”[1510]

◆

169. SOMEONE WHO SAYS TO HIS WIFE, “YOU ARE *ḤARĀM* TO ME.”

523. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who says to his wife, ‘You are forbidden (*ḥarām*) to me,’ that if he intended divorce, it is a single one and he retains the right to take her back.’”[1511]

Muḥammad said, “As for the verdict of Abū Ḥanīfah, it is that if he intended divorce, it is as he intended. If he intended a single divorce, it is a single final[1512] divorce, and if he intended a divorce without specifying a number, it is a single final divorce. If he intended two divorces, it is a single final divorce. If he intended a single divorce in which he retained the right to take her back, it is a single final divorce. If he intended three divorces, it is three and she is not permissible to him until after she has married another man. If he did not intend divorce,[1513] it is an oath and he is a man who has sworn to abstain from intercourse with his wife (*īlāʾ*).[1514] If he leaves her for four months and does not come near her, she becomes finally divorced[1515] from him by *īlāʾ*. [See hadith 412] If he had no intention, it is still *īlāʾ*. If he intended it as a lie, it is of no account,[1516] and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.

◆

170. *LIʿĀN*[1517]

524. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘*Liʿān* is a final divorce.’”[1518] [1519]

525. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning the two parties to a *liʿān* divorce, ‘They are to be separated because it is a final divorce.’”

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

526. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm who said, “If a man accuses his wife of adultery but then does not engage in the *liʿān* procedure with her, they remain in their marriage. However, if he engages in the procedure of *liʿān* with her, she becomes finally divorced from him,[1520] and he is never allowed to remarry her unless he himself admits to lying. Then if he himself admits to lying,[1521] he may marry her.”’”[1522]

Muḥammad said, “We adhere to this, if he himself admits to lying and is flogged for transgressing the limits [concerning slander] and his testimony is invalidated[1523] then he may remarry her, and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

527. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm concerning a man who accused his wife of adultery and then divorced her three times that he said, “There is to be no procedure of *liʿān* between them[1524] nor is any punishment to be imposed on him for transgressing the limits [concerning slander], since he had accused her of adultery while she was married to him, and the opportunity for *liʿān* had come about but he did not engage in the procedure of *liʿān*

before divorcing her. So the procedure of *liʿān* is invalid and there is no punishment for transgressing the limits to be imposed on him.”’”[1525]

528. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm concerning a man who accused his wife of adultery about which [accusation] she was silent[1526] and he divorced her three times, but later she was prepared [to defend herself],[1527] that there is to be no procedure of *liʿān* between them.’”[1528]

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

529. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man accuses his wife of adultery and one of them engages in the procedure of *liʿān*, they still may inherit from each other as long as the other person has not engaged in the procedure of *liʿān*.’”

Muḥammad said, “We adhere to this. They inherit from each other as long as they have not both engaged in the procedure of *liʿān*, and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

171. THE WOMAN BEING GIVEN THE CHOICE [OF DIVORCE] AND [THE STATEMENT] “YOUR AFFAIR IS IN YOUR OWN HANDS”

530. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man says to his wife, “Your affair is in your own hands,” then she can only choose a single [divorce], but if he says, “That of divorce

which is in my hands is now in your hands,” she must decide in that sitting before they separate. If she says that it is one divorce or two divorces, it is whatever she says.’”

image

Muḥammad said, “As for our verdict, if he says to her, ‘Your affair is in your own hands,’ and she chooses her own self, it is according to what the husband intended. If he intended a single divorce, it is a single final divorce, and if he intended three divorces, it is three,[1529] and if he intended two divorces, it is a single final divorce. It will never be anything other than a single final divorce or three divorces if he intended that. If he had not intended divorce and it had come out of anger, he is not believed in judgement [in court], but he is believed in that which is between him and Allah, exalted is He. If it had taken place, but not because of anger, he is believed in all of that, if he swears an oath. All of this is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

image

531. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm spoke concerning a man who said to his wife, ‘You choose!’ or ‘Your affair is in your own hands!’ and he said, ‘They are the same.’”[1530]

image

Muḥammad said, “We say they are the same, but that it is her right[1531] as long as she is still sitting [with her husband] and does not take up some other activity. If she takes up some other activity or stands up from sitting with him, her choice is obviated. If she chooses her self, there are two differing judgements.[1532] As for his saying, ‘You choose!’ if he had meant divorce, it is a single final divorce in any case whether he meant three divorces or something else, and that is all the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

image

532. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man offers his wife the choice [of divorce] but she stands up from that sitting of hers, she [no longer] has a choice.’”

533. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘ʿAmr ibn Dīnār narrated to us from Jābir who said, “If a man offers his wife the choice [of divorce] but she stands up from sitting [with him] then she has no choice.”’”[1533]

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

Muḥammad said, “The one from whom he narrated was Jābir ibn Zayd Abū’sh-Shuʿthā’.”

534. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿUmar ibn al-Khaṭṭāb ﵁ and ʿAbdullāh ibn Masʿūd ﵁ both used to say about a woman whose husband offers her the choice [of divorce] but she chose to stay with him, that she is his wife. If she chose herself, it is a divorce[1534] and her husband has more right to her.”[1535] [1536]

535. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm that Zayd ibn Thābit ﵁ used to say, “If she chose her husband, it is nothing and she is his wife. However, if she chose herself, it is three [divorces][1537] and she is unlawful [*ḥarām*] to him until she marries another husband.” ʿAlī ibn Abī Ṭālib ﵁ used to say, “If she chose her husband, it [still counts as] a single divorce and the husband has more right to her. If she chose herself, it is a single [divorce][1538] and she has more right to herself.”’”[1539]

536. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm from ʿĀ’ishah who said, “The

Messenger of Allah ﷺ gave us [his wives] the choice and we chose him and he did not count that against us as a divorce.”’”[1540]

Muḥammad said, “We adhere to the verdict of ʿĀ’ishah which she narrated from the Prophet ﷺ, and to the verdict of ʿUmar ؓ and Ibn Masʿūd ؓ: if she chooses her husband, it is nothing. And [we adhere] to the verdict of ʿAlī ؓ: if she chooses her self, it is a single [divorce] and she has more right to herself[1541] and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

172. *ĪLĀ’*[1542] [DIVORCE BROUGHT ABOUT BECAUSE THE HUSBAND SWEARS TO ABSTAIN FROM SEXUAL INTERCOURSE WITH HIS WIFE FOR FOUR MONTHS]

537. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man swears to abstain from sexual intercourse with his wife, but then has intercourse with her within the four months, he must pay an expiation [for the broken oath].’”

Muḥammad said, “We adhere to this and the *īlā’* is invalidated, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

538. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘ʿAbdullāh ibn Anas an-Nakhaʿī swore to abstain from sexual intercourse with his wife and then was away from her for five months. Later he came and had sexual intercourse with her, and came out to his companions with his head dripping from [the *ghusl* after] intercourse. They said to him, “You had intercourse with so-and-so?” He said, “Yes.” They asked, “Had you not sworn not to have sexual intercourse with her?” He

said, “Certainly.” They said, “We are afraid for you that she might have become finally divorced from you.” So they took him to ʿAlqamah but found nothing [concerning the matter] with him. ʿAlqamah took them to ʿAbdullāh ibn Masʿūd and he mentioned the matter to him. He told him to go and tell her that she had become finally divorced from him and to propose to her. So he went to her and told her, and proposed to her with [a dowry of] some *mithqals* of silver.’”[1543]

image

Muḥammad said, “We adhere to this, and we think that he owes her a dowry for having had sexual intercourse with her before the second marriage, and that is the verdict of Abū Ḥanīfah, Ibrāhīm an-Nakhaʿī and Ḥammād ibn Abī Sulaymān.”

image

539. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘ʿAmr ibn Murrah narrated to us from Abū ʿUbaydah from ʿAbdullāh ibn Masʿūd who said, “If a man swears to abstain from sexual intercourse with his wife and four months passes, she becomes finally divorced[1544] from him with a single divorce and he is a suitor[1545] who can propose to her within her ʿ*iddah* and no one else may propose to her within her ʿ*iddah*.”’”[1546]

image

Muḥammad said, “We adhere to this. The divorce takes effect[1547] with the completion of the four months. [His] returning [to her] is the act of sexual intercourse within the four months, and the execution [of the divorce] is not stayed[1548] after that, and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

image

540. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that a man’s wife gave birth and she said to him, ‘Don’t approach me until I wean this child of mine because I am afraid to become pregnant at the same time as him,’ and so he swore an oath that he would not approach her until she had weaned him. He [Ḥammād] said, ‘So I asked

him about that and he said, “I am afraid that it might be *īlā’*, but I hope that it is not *īlā’*.”’”

Muḥammad said, “So I asked Abū Ḥanīfah about that and he said, ‘It is *īlā’*.’”

Muḥammad said, “We adhere to this.”

541. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Abū’l-ʿAṭūf narrated to us from az-Zuhrī that the Prophet ﷺ swore to abstain from sexual intercourse with his wives for a month. Then when twenty-nine days had passed he sent a message to ʿĀ’ishah, “Come.” She sent a message back to him, “You have sworn to abstain from sexual intercourse with me. I continue to count the days and the nights and one day of the month still remains.” So he sent a message back to her, “Come, because the month [can be both] thirty and twenty-nine [days].”’”[1549]

Muḥammad said, “We adhere to this if it is reckoned by new moons. If it is reckoned by any other reckoning than new moons then the month is thirty days, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

542. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm concerning a man who says to his wife, “If I approach you then you are divorced,” and then leaves her for four months. He said, “She becomes finally divorced by *īlā’*.”’”

“That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

173. SOMEONE WHO SWEARS TO ABSTAIN FROM INTERCOURSE WITH HIS WIFE AND THEN DIVORCES HER

543. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man swears to abstain from intercourse with his wife and then later divorces her, the divorce overturns[1550] the *īlā’*.’”[1551]

Muḥammad said, “We do not adhere to this.”

544. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from ash-Shaʿbī who said, ‘If a man swears to abstain from sexual intercourse with his wife and later divorces her, the two cases are like two horses in a wager:[1552] if she has passed the four months and is in any part of her *ʿiddah* [from the *īlā’* divorce] then the divorce due to the *īlā’* takes place along with the divorce which has been pronounced. If the *ʿiddah* [of the divorce] has expired before the time of the four months comes then the *īlā’* is dropped.’”[1553]

Muḥammad said, “So I said to Abū Ḥanīfah, ‘To which of the two verdicts do you adhere?’ He said, ‘The verdict of ʿĀmir ash-Shaʿbī.’”

Muḥammad said, “We adhere to it.”

◆

174. *ẒIHĀR* [DIVORCE BY THE MAN PRONOUNCING “TO ME YOU ARE AS MY MOTHER’S BACK”[1554]

545. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man declares *ẓihār* from four women, he has to make four expiations[1555] [if he wishes to retract the *ẓihār*].’”[1556]

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

546. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who says to his wife, ‘To me you are as my mother’s back! To me you are as my mother’s back!’ meaning by that [repetition] to be hard on her, that he has to make two expiations. He said, ‘It is similar with two oaths. If he meant the first, then it is a single one.’”[1557]

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

547. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm concerning a man who declares *ẓihār* from his wife and later divorces her, and later remarries her after the expiry of the ʿ*iddah*, that he said, ‘The *ẓihār* remains is as it was; he must not approach her until he has made expiation.’”[1558]

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

548. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man declares *ẓihār* from his wife, he may not approach her until he has set free a slave. If he does not find that, then he must fast two consecutive months. If he is not able to do that then he must feed sixty poor people. If he does not find [that with which to do that, still] he may not approach her until he has expiated with one of these expiations.’”

image

Muḥammad said, “We adhere to this. *Īlā* does not enter into that even if it becomes lengthy,[1559] and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

image

549. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm concerning a man who declares *ẓihār* from his wife and then approaches her [sexually] before having made expiation, that he said, ‘He has done wrong[1560] and must not repeat it.’”[1561]

image

Muḥammad said, “We adhere to this. He must not repeat it until he has made expiation, but only a single expiation is incumbent upon him, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

image

550. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘*Ẓihār* does not take place when a man declares *ẓihār* from his wife except by his likening her to someone who is a *maḥram*.’”[1562]

image

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

image

551. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm concerning a man who declares *ẓihār* from his wife and later has

sexual intercourse with her at night while fasting [in expiation of his *ẓihār*] that he said, ‘He must resume his fasting from the beginning again.’”

Muḥammad said, “We adhere to this because Allah, exalted is He, says, ‘... *must fast for two consecutive months before the two of them may touch one another again*’ (Sūrat al-Mujādilah: 4). Therefore if he has sexual intercourse with her during the time when he is fasting, his fasting is invalidated and he must begin the two consecutive months again from the beginning. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

552. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm concerning a man who says to his wife, ‘If I approach you then you are to me as my mother’s back,’ that he said, ‘If he leaves her alone for four months she becomes finally divorced from him by *īlā’*. If he has sexual intercourse with her within the four months then the expiation for *ẓihār* is due from him.’”

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

175. DECLARING *ẒIHĀR* FROM A SLAVE WOMAN

553. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that *ẓihār* is expedited against a slave woman if her husband declares *ẓihār* from her.”

Muḥammad said, “*Ẓihar* is expedited against her if her husband declares *ẓihār* from her. However, *ẓihār* is not expedited against her if her owner declares *ẓihār* from her because Allah, exalted is He, says, ‘*Those who divorce their wives by equating them with their mothers,*’ (Sūrat al-Mujādilah: 3) and the slave woman is not a wife against whom *ẓihār* can be expedited. That is the verdict of Abū Ḥanīfah, Saʿīd ibn al-Musayyab, Mujāhid and ʿĀmir ash-Shaʿbī, may Allah, exalted is He, have mercy on them.”

[1360] i.e., divorce according to the Sunnah, and what is meant by Sunnah here is “permissible” because divorce is not an act of worship in itself so that there be a reward established for it. The meaning of its being “of the Sunnah” is: that which is firmly established as generally not necessitating punishment. Indeed [holding to the Sunnah of divorce] is rewarded if there is a reason for him to divorce her after sexual intercourse or while she is menstruating or with three divorces but he prevents himself preferring to find another way or he limits himself to one divorce. [He may be rewarded for that] not for divorce, but rather for restraining himself from that happening, as Ibn al-Hamām explained.

[1361] Because the Companions used to prefer not divorcing more than one time until the ʿ*iddah* had run its course, and this is better according to them than a man divorcing his wife three times, once with each purification after menstruation.

[1362] Abū Yūsuf narrated it on p.129 from Ibn Masʿūd.

[1363] With a single declaration of divorce as is in the narration of Muslim.

[1364] In a narration there is, “So ʿUmar asked the Messenger of Allah about that, and he said, ‘Tell him to take her back and then retain her until she enters into the state of purity then again menstruates and then becomes pure again. Then if he wishes he may retain her and if he wishes divorce her before touching her.’”

[1365] Abū Yūsuf narrated it on p.128.

[1366] *ghurrah hilāl* means the beginning of each month, and the *ghurrah* of a thing is the first part of it. In the *Āthār* of Abū Yūsuf there is that he should divorce her at the beginning (*ra’s*) of the new moon or whenever it occurs to him.

[1367] Abū Yūsuf narrated it on p.129.

[1368] As did Abū Yūsuf.

[1369] A divorce in which the husband can take her back within the ʿ*iddah* or a final divorce. Ash-Shāfiʿī image said that if the husband divorces her thrice or divorces her for compensation then she has no maintenance unless she is pregnant. His proof is that which Fāṭimah bint Qays narrated, when she said, “My husband divorced me three times and the Messenger of Allah image did not appoint a dwelling for me nor any maintenance.” The answer to this is that ʿUmar image rejected it saying, “We will not abandon the Book of our Lord nor the Sunnah of our Prophet for the word of a woman whom we do not know whether or not she remembered.” ʿĀ’ishah image said, “Fāṭimah lived in an isolated place and so one feared for her because of her neighbourhood, and so for that reason the Messenger of Allah image gave her special license [not to spend her ʿ*iddah* in the house in which she was divorced].”

[1370] Lexically *īlā’* means an oath, and in the *Sharīʿah* it denotes withholding oneself from approaching one’s wife for four months or more if that act of withholding oneself is stressed with an oath.

[1371] i.e., if she was pregnant. Otherwise the ʿ*iddah* of a woman divorced such that her husband retains the right to take her back or in a final divorce is three menstrual periods. If she does not menstruate because of her youth or her age, then her ʿ*iddah* is three months. The ʿ*iddah* of the widow is four months and ten days.

[1372] Who has not reached puberty and does not menstruate.

[1373] i.e., starting over from the beginning.

[1374] Abū Yūsuf narrated it on p.145.

[1375] “From him” the first husband.

[1376] Meaning that it makes that remainder from the first marriage as if it had not happened and so she is not made *ḥarām* in a binding fashion unless he divorced her three times [at once] or [three times] singly.

[1377] Abū Yūsuf narrated the like of it on p.138 from Ibrāhīm as a *mawqūf* statement of his.

[1378] As did Abū Yūsuf.

[1379] i.e., he is on what remains of the three after discounting those previously done.

[If her first husband had divorced her twice already, then if they marry again and subsequently divorce, it is irrevocable and they may not remarry except after a new marriage to a new husband that is consummated. – Trans.]

[1380] i.e., one.

[1381] i.e., of the three divorces.

[1382] Abū Yūsuf narrated the like of it on p.138.

[1383] Abū Yūsuf narrated it on p.143.

[1384] All together and not separated. When the three take place all at once they take effect. If he were to separate them by saying, “You are divorced, and divorced, and divorced,” or by repeating it without the conjunction [and], the first in particular takes effect since the “and” is an unqualified conjunction, and there is no precondition or exception at the end of the phrase to alter its beginning. Mālik, and ash-Shāfiʿī in his older school, said that he has thrice divorced.

[1385] And she has no ʿ*iddah*.

[1386] The second and third divorces do not take effect because she became finally divorced by the first declaration.

[1387] Abū Yūsuf narrated it on p.131.

[1388] Meaning that if the man who is mortally ill divorces his wife thrice [irrevocably] or once finally and then dies while she is in her ʿ*iddah*, she inherits by the unanimous agreement of our colleagues [the *Ḥanafīs*]. Concerning the ʿ*iddah* they disagreed. Abū Ḥanīfah and Muḥammad said that her ʿ*iddah* is the longer of the two terms, but Abū Yūsuf said that it is three menstrual periods. As for if it is a divorce in which he retains the right to take her back, then she has to observe the ʿ*iddah* of the widow by unanimous agreement.

[1389] i.e., she observes as ʿ*iddah* four months and ten days in which there are included three menstrual periods but if she observes four months and ten days without menstruating, she remains in ʿ*iddah* as long as she does not menstruate for three menstrual periods. If she completes three menstrual periods before the four months and ten days are over her ʿ*iddah* is not over until she completes the term.

[1390] Based on the fact that menstrual periods can be irregular and could possibly be unusually long so that three of them exceed the four months and ten days.

[1391] Abū Yūsuf narrated it on p.136.

[1392] If it is a divorce in which he retains the right to take her back.

[1393] i.e., the ʿ*iddah* of someone whose husband has died since she did not remain his wife after the expiry of her ʿ*iddah* [of divorce] and has become a woman who is a stranger to him.

[1394] Abū Yūsuf narrated it on p.136.

[1395] She annuls what of her ʿ*iddah* she discharged in months, and has to start the ʿ*iddah* again according to menstrual periods because in the *āyah* the monthly reckoning is a substitute for the reckoning according to menstrual periods, and one does not take into account the substitute when there is the possibility of doing the original. So when she sees blood, then she knows that her having despaired of going according to the original ruling has not been realised, and the precondition is that one despair of it right up until death, just as in the case of a decrepit old man paying a ransom [instead of fasting].

[1396] Abū Yūsuf narrated it on p.145.

[1397] With a divorce in which he retained the right to take her back.

[1398] And in one narration, “A single menstruation or two.”

[1399] She died before the ʿ*iddah* in terms of menstrual cycles had been completed.

[1400] He had kept it back by extending the ʿ*iddah*. The upshot of it is that Ibn Masʿūd gave the *fatwā* that the ʿ*iddah* had not come to an end even if eighteen months had passed from the time of the divorce as long as she had not menstruated. That is because she had not come to despair of menstruating but on the contrary her menstruation had disappeared because of her breastfeeding or some other reason. So she does not come out of the ʿ*iddah* as long as she does not menstruate.

[1401] As she would also inherit from him if he died during her ʿ*iddah*.

[1402] He meant by the “shorter”, Sūrat aṭ-Ṭalāq in which there is, “*The time for women who are pregnant is when they give birth*” (Sūrat aṭ-Ṭalāq: 4). This was revealed after His words, exalted is He, in Sūrat al-Baqarah, “*Those of you who die leaving wives behind: they should wait by themselves for four months and ten nights,*” and is interpreted as being abrogated as al-Baghawī said in *Maʿālim at-tanzīl*.

[1403] Because it was revealed after Sūrat al-Baqarah.

[1404] Abū Yūsuf narrated it on p.143.

[1405] Abū Yūsuf narrated it on p.144.

[1406] The child which comes out of its mother’s womb before being completely formed.

[1407] i.e., the days of her menstrual period which she had ordinarily menstruated before suffering chronic menstrual bleeding.

[1408] Abū Yūsuf narrated it on p.145.

[1409] Abū Yūsuf narrated it on p.144.

[1410] A divorce in which he retained the right to take her back.

[1411] My husband.

[1412] i.e., according to your own view because of the lack of a clear statement in the Book.

[1413] The husband has more right to take her back.

[1414] *kinf* is a shepherd’s receptacle for travelling provisions and the diminutive form *kunayf* was an honorific name for ʿAbdullāh ibn Masʿūd making a metaphor of him as a shepherd’s receptacle, the diminutive being used as an expression of praise for him. However, it is not unlikely that it was used because Ibn Masʿūd was very short, meaning that even if he was short in stature he was great in meaning.

[1415] Abū Yūsuf narrated it on p.133.

[1416] A man from ʿAbd al-Qays.

[1417] A divorce in which he retained the right to take her back.

[1418] In another narration he went travelling.

[1419] Before the conclusion of the ʿ*iddah*.

[1420] With festivities and music.

[1421] Abū Kanf.

[1422] And in another narration to the Amīr of Egypt.

[1423] Addressing the governor.

[1424] The second husband.

[1425] The first husband Abū Kanf.

[1426] The second husband.

[1427] Wife of the second husband, but the contrary of this is narrated of ʿAlī as Ibn Ḥazm narrated by way of ath-Thawrī and the compiler [Imam Muḥammad] did by way of Ibrāhīm that ʿAlī said, "She belongs to the former whether or not the other had consummated the marriage with her."

[1428] Abū Kanf found his wife, and in another narration there is that Abū Kanf came and found that the other husband had not consummated the marriage with her and so he said to the women with her, "Leave her, because I have need of her." So they left her and he made love to her right there and then and so she was his wife.

[1429] Abū Kanf.

[1430] Abū Yūsuf narrated it on p.129.

[1431] Whether or not the other man had consummated the marriage with her because the marriage of the first still remains in place because of his having taken her back even if she did not know that.

[1432] Abū Yūsuf narrated it on p.128.

[1433] By pronouncing three divorces all at one time.

[1434] The dominant majority of the *ʿulamāʾ* have no disagreement about that, and whoever disagrees with them is an isolated individual who disagrees with the People of the Sunnah, and that is only attached to those who are people of innovation and those to whom one pays no attention because of their being isolated individuals separated from the main body.

[1435] i.e., beautify herself for her husband because she is *ḥalāl* for her husband since the marriage between them still exists, and moreover their returning to each other is recommended, and since her beautifying herself would lead to that then it is a part of the *Sharīʿah* to do so.

[1436] Abū Yūsuf narrated it on p.145.

[1437] The act of taking her back would be if he said, "I take you back," and this is a clear declaration about which there is no difference of opinion, or that he makes love to her, or kisses her or fondles her with passion, and this is the position according to us. Ash-Shāfiʿī said that the act of taking back is only valid by his saying it and being able to do so.

[1438] Abū Yūsuf narrated the like of it on pp.144.

[1439] *juʿl* is the noun and *jaʿl* the verbal noun (*maṣdar*) and means the reward for anything.

[1440] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.4, p.122.

[1441] *ʿInnīn* is someone unable to have sexual intercourse with women.

[1442] That separation.

[1443] Because the *qāḍī's* act is ascribed as if it were the act of the husband, so that it is as if he himself had divorced her. Ash-Shāfiʿī said it is abrogated because it is a separation that comes from her and it only becomes final because the purpose is to prevent her being done an injustice which can only be attained by it.

[1444] Abū Yūsuf narrated it on p.141.

[1445] There has to be a definite period set for that and we have measured it as a year since it comprises the four seasons. Then when the period of time has elapsed and he has been unable to make love to her it is clear that his incapacity is because of some fundamental defect and the option of their retention "*with correctness and courtesy*" has been lost and he is obliged to "*release them with excellent good treatment*." (Sūrat al-Baqarah: 229) [1446] Abū Yūsuf narrated the like of it on p.141 from Ibrāhīm.

[1447] And then he repudiates that he had done it, and is made to swear an oath.

[1448] Because he divorced her thrice and she thus became as if a foreigner to him and it is not *ḥalāl* for him to vacillate about her.

[1449] He should not have sexual intercourse with her except against her will so that the wrong action is his and not hers.

[1450] E.W. Lane's *Arabic-English Lexicon* has also that *tastadhfiru* means *tastathfiru* which is "*to bind up her private parts*" i.e., so as to prevent him having access to sexual intercourse. – Trans.

[1451] i.e., not beautify herself.

[1452] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.4, p.102.

[1453] *jidd*: earnestness, is the opposite of *hazl*: jest. Jest is that one intends by something other than what it was intended for without any relationship between them. Earnestness is that one intends by something that for which it was intended or that for which it is appropriate metaphorically. Thus someone who marries, divorces, takes his divorced wife back or sets slaves free and says, "I was only joking and did not really intend it in that sense," then his statement is not to be reckoned with, and the divorce is expedited, marriage is contracted and is binding, and his act of taking his divorced wife back is ratified and his slave is really set free.

[1454] See the traditions about that in the *Muṣannaf* of Ibn Abī Shaybah, vol.4, p.119.

[1455] A woman set from free from marriage or something else, and *bariyyah* has a similar meaning.

[1456] *bariyyah* proved difficult to find in our reference sources. It appears to be from *bara'a* "to declare oneself quit or free," which would ordinarily give *barī'ah*, but perhaps here is lightened to give *bariyyah*. – Trans.

[1457] Its meaning is severance. All of these terms are allusions by which divorce is not expedited except by intending [divorce] or by the indication of the person's state because all of these terms can be interpreted to mean divorce or something else so that there has to have been an intention [to divorce].

[1458] And if he intended two it is one final (*bā'in*) divorce.

[1459] See the traditions about that in the *Muṣannaf* of Ibn Abī Shaybah, vol.4, pp.94-95.

[1460] He divorced his wife using the term irrevocably (*battah*).

[1461] And in another narration, "And he had withdrawn from the office of *qāḍī*."

[1462] ʿUrwah.

[1463] Shurayḥ.

[1464] The sentence is *ḥāliyah*, meaning, "What can I say about it when ʿUmar and ʿAlī passed a verdict on it, and they were of the Caliphs who took the right way image?"

[1465] One should consider what he meant and intended by it.

[1466] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.4, p.95.

[1467] *mubarsam*, an Arabised word from *sarsām* and *barsām*, is a well-known ailment.

[1468] Ibn Abī Shaybah narrated the like of it in the *Muṣannaf*, vol.4, p.77.

[1469] And the divorce of every husband is expedited if he is in possession of his intellect and has reached puberty, but the divorce of someone who has not reached puberty, the insane and those asleep does take effect.

[1470] The intoxicated person, and what is meant by intoxicated in this context is someone who is completely drunk, which is defined as not being able to tell the earth and the sky apart. Al-Karkhī and aṭ-Ṭaḥāwī, may Allah be merciful to them, chose the position that it is not executed which is also one of the two positions of ash-Shāfiʿī.

[1471] Meaning that it is executed.

[1472] See the traditions about that in the *Muṣannaf* of Ibn Abī Shaybah, vol.4, pp.78-79.

[1473] Ibn Abī Shaybah narrated the like of it in the *Muṣannaf*, vol.4, p.78.

[1474] Meaning that it is executed. The three Imams said that the divorce and the act of setting a slave free are not executed when the person has been coerced to do so. As for our position, it is valid, which is deduced from the analogous situation of someone doing so in jest. The basic position with us (*Ḥanafīs*) which cannot be interpreted to be invalid is that coercion does not prevent its being executed, and that similarly everything which when undertaken in jest would be executed is also executed when undertaken because of coercion.

[1475] See the traditions about that in the *Muṣannaf* of Ibn Abī Shaybah, vol.4, pp.85-86.

[1476] Abū Yūsuf narrated it on p.148, and Ibn ʿUmar narrated it as a *marfūʿ* hadith, which Abū Dāwūd narrated under “divorce” in the chapter on “the abhorence of divorce,” and Ibn Mājah narrated under “divorce.”

[1477] And in a narration in the *Muṣannaf* of ʿAbd ar-Razzāq, “From Muḥammad ibn Qays who said, ‘I asked Ibrāhīm and ash-Shaʿbī about divorce [declared] before marriage and they said that al-Aswad named a woman and said that if he married her she was divorced. So he asked Ibn Masʿūd about that and he said, “She has become finally divorced from you.”’”

[1478] He connected the divorce to the coming into possession of her [in marriage] itself or because of it. Ash-Shāfiʿī said that this connection is not valid and that divorce will not be executed because of it because of that which Abū Dāwūd and others narrated, “There is no divorce in respect of that [woman] whom one has no authority over,” and in another narration, “There is no divorce before marriage,” to which our companions responded by interpreting it to refer to execution [meaning that a divorce pronounced before marriage is only executed upon marriage].

[1479] And divorce takes place by the simple fact of making the contract [of marriage].

[1480] The “dowry of someone her equal” means the dowry that women in her family normally receive, such as her sisters, cousins, etc.

[1481] i.e., in the time of *jāhiliyyah*.

[1482] And it is not *ḥalāl* for them to take them back after accepting Islam since the Messenger of Allah confirmed people in that condition which Islam found them in whether divorce, marriage or inheritance. For example, if a man divorced his wife three times, and they were both Christians or something else, and then both accepted Islam after that, it is not *ḥalāl* for him to marry her until she has married someone else, in the same way as the judgement is in Islam because of that which ʿAbd ar-Razzāq narrated in his *Muṣannaf* from Ibn Jurayj, “I said to ʿAṭā’, ‘A man divorced his wife while associating partners with Allah and made it irrevocable, and then they later accepted Islam?’ And he said, ‘I only think that she is not *ḥalāl* for him until she has married another husband.’”

[1483] Abū Yūsuf narrated it on p.131.

[1484] This removal was because of a valid excuse, and reasonable excuses affect acts of worship. [Ordinarily a woman observes her ʿ*iddah* in the house in which she was divorced or widowed, but this happened in a public building. – Trans.] Otherwise, the woman observing ʿ*iddah* must pass it in the house in which she was living at the time of the separation or the death of her husband because of

His words, exalted is He, “*Do not evict them from their homes, nor should they leave*...” (Sūrat aṭ-Ṭalāq: 1) and the home mentioned here is the one in which she resides. He said image to Furayʿah bint Mālik, “Stay in your house until the stipulated time (*kitāb*) reaches its due period.”

[1485] The house in which the Amīr al-Mu’minīn resided.

[1486] Abū Yūsuf narrated it on p.143.

[1487] Because the cause of the necessity of the ʿ*iddah* is the divorce or the death, and one reckons the beginning of its time from the moment when the cause came into existence. Thus if she does not know about the divorce or the death until after the completion of the ʿ*iddah* then her ʿ*iddah* has expired.

[1488] i.e., to seek her livelihood etc. So she may come out during the daytime and for some part of the night, but she may not sleep in any other house than her own.

[1489] Abū Yūsuf narrated it on p.142.

[1490] Abū Yūsuf narrated it on p.142.

[1491] Connecting [the inshā’Allāh].

[1492] Divorce is not executed.

[1493] Abū Yūsuf narrated it on p.138.

[1494] Because [the phrase *i*ʿ*taddī*] can mean observance of the ʿ*iddah* and it can mean [lexically] “enumerate the blessings of Allah, exalted is He.” If he intended the former, it becomes specific because of his intention, and thus requires a preceding divorce.

[1495] Abū Yūsuf narrated it on p.140 from Ibn Masʿūd.

[1496] And in another narration, “I have no need of men.”

[1497] ʿĀ’ishah image as is stated clearly in other narrations.

[1498] Abū Yūsuf narrated it on p.146.

[1499] An *umm walad* is a slave woman who is mother of a child by her master. Neither she nor her child may be sold and on the death of her master she automatically becomes free. – Trans.

[1500] Abū Yūsuf narrated it on p.145.

[1501] If the *umm walad* miscarries [which is not completely formed] does she become an *umm walad* or not?

[1502] Because she has submitted but the incapacity is only on his part.

[1503] Whether or not she is in the husband’s house until she comes into the condition in which she is able to have sexual intercourse. Ash-Shāfiʿī said that she has maintenance.

[1504] See the traditions about that in the *Muṣannaf*, vol.4, pp.128-9.

[1505] Because of His words, exalted is He, “*There is nothing wrong in the wife ransoming herself with some of what she received*,” (Sūrat al-Baqarah: 227) which shows by its unqualified nature the acceptability of ransoming without any qualification of the amount even if it be with her entire wealth.

[1506] i.e., according to outward legal judgement.

[1507] It is abhorent for him in that which is between him and Allah.

[1508] The sound position is that his name was ʿAmmār ibn ʿAbdullāh ibn Yasār and that Abū ʿUmārah was his honorific (*kunyah*).

[1509] And it is abhorent for him to take it in [the name of] religion (*diyānah*).

[1510] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.4, p.128.

[1511] See the traditions about that in the *Muṣannaf* of Ibn Abī Shaybah, vol.4, pp.98-99.

[1512] If he did not intend a particular number of divorces or intended it once or twice, because it is an allusion.

[1513] If he said, “I meant to render her *ḥarām*,” [which is regarded as an oath that has to be expiated but not as divorce. – Trans.] or he said, “I didn’t mean anything by it.”

[1514] Because the principle in declaring the *ḥalāl* to be *ḥarām* is that it is an oath in our view even if he intended to lie because the woman is *ḥalāl* for him, so that his saying, “You are *ḥarām*,” does not correspond to the actual situation and is a lie.

[1515] And if he approaches her within four months he must make expiation.

[1516] Divorce does not take place because he intended the literal meaning of what he said. Some shaykhs consider the wording of declaring her *ḥarām* to be a divorce, although unintended, according to customary usage since it is customary among people in this age of ours that they intend divorce by it, and the *faqīh*, Abū’l-Layth said, “We adhere to that.”

[1517] *liʿān* derives from “cursing” which means expulsion and driving far away, and in the *Sharīʿah* it is acts of testification emphasised by an oath which takes place between a couple with a curse which stands in place of the punishment for slander with respect to the man and in place of the punishment for adultery with respect to the woman. [“*Those who make an accusation against their wives and have no witnesses except themselves, such people should testify four times by Allah that they are telling the truth and a fifth time that Allah’s curse will be upon them if they are lying. And the punishment is removed from her if she testifies four times by Allah that he is lying and a fifth time that Allah’s anger will be upon her if he is telling the truth*” Sūrat an-Nūr: 6-9.]

[1518] If the *qāḍī* separates them after the *liʿān* it is a final divorce according to Abū Ḥanīfah and Muḥammad. Abū Yūsuf held that it is an irrevocable divorce in which there is no possibility of remarriage ever (*taḥrīm mu’abbad*).

[1519] Abū Yūsuf narrated it on p.153.

[1520] By the *qāḍī* separating them.

[1521] Because admitting to lying is tantamount to withdrawing the testimony, and withdrawing it invalidates the judgement that results from it. There is no contradiction between the text stating that the couple who engage in *liʿān* are divorced forever and may never remarry and the invalidation of the *liʿān* [in this case] since the meaning [of the former] is that they may never remarry as long as they both engage in *liʿan* since they are both doing that either in reality by embracing *liʿān* or metaphorically in terms of the endurance of its judgement. So nothing remains after his admission to lying. As for in reality, then that is obvious. As for in judgement, then when he admitted to lying, he necessitated punishment [for having slandered her] and so his competence as a witness for *liʿān* was invalidated, and when the competence is invalidated then the judgement is removed, and so they may reunite.

[1522] Abū Yūsuf narrated it on p.153.

[1523] He becomes someone whose testimony is no longer acceptable.

[1524] Because its place (*miḥlāl*) no longer remains.

[1525] Abū Yūsuf narrated it on p.153.

[1526] Since there is no *liʿān* without her demanding that she has been slandered.

[1527] Ḥāfiẓ Riyāḍ Aḥmad al-Multānī says that it means, "Then she is prepared for her former husband because she had married another man who had consummated the marriage with her, then divorced her. Then she had completed her *ʿiddah* and was thus prepared [for remarriage] with her former husband." It seems to me that my translation might be closer here, since the case involves her having remained silent when slandered and not availed of the opportunity of *liʿān* that was her right to clear her name. And Allah knows best. – Trans.

[1528] Abū Yūsuf narrated it on p.153.

[1529] His intention was that it should be three when he said to her, "The matter is in your hands," since "matter" is a general term comprising everything, and divorce is a verbal noun bearing both a general and particular sense. So that the intention that it be three is an intention of generalisation contrary to saying, "You choose," since that does not carry the sense of generalisation since choice is not multiple [but rather it is between whether or not to divorce].

[1530] Abū Yūsuf narrated it on p.140.

[1531] To choose.

[1532] The two statements, "The matters is in your hands," and "You choose," because in the former the intention that it be a threefold divorce is valid contrary to the second case.

[1533] Abū Yūsuf narrated the like of it on p.140.

[1534] i.e., [a divorce] in which he retained the right to take his wife back. Other judgements are narrated from both of them, that if she chooses herself, it is a single final divorce.

[1535] He has more right to her than others. [It is not a final *bāʼin* divorce, but a divorce in which the husband has the right to take her back. – Trans.]

[1536] Abū Yūsuf narrated it on p.139.

[1537] Which Mālik adhered to.

[1538] i.e., a final divorce, and that is the meaning of his saying, "[she has] more right to herself."

[1539] Abū Yūsuf narrated it on p.139.

[1540] Al-Bukhārī narrated it under "divorce" in the chapter on "someone who gives his wives the choice [of divorce]," and Muslim under "divorce" in the chapter on "explanation that giving the choice [of divorce] to one's wife is not a divorce," and at-Tirmidhī under "divorce" in the chapter on "that which has been narrated on giving a choice."

[1541] The husband has no right to take her back and the divorce is final, although he may be a suitor.

[1542] *īlāʼ* is an oath and its principle is abstention from something, and technically it means to swear an oath to abstain from sexual intercourse with a wife for four months or more.

[1543] Abū Yūsuf narrated it on p.147.

[1544] If four months pass she becomes finally divorced with a single divorce, but Mālik, ash-Shāfiʿī and Aḥmad took the position that if the man who swears to abstain from sexual intercourse with his wife for four months does not return and four months pass, divorce does not come about by the passing of this time, but that rather he is made to stop until he either returns to her or divorces her.

[1545] If he wishes to propose to her and marry her with a new contract, as may other suitors.

[1546] Abū Yūsuf narrated it on p.149.

[1547] Thus Ibn ʿAbbās image explained His saying, exalted is He, "*If they then retract their oath, Allah is Ever-Forgiving, Most Merciful. If they are determined to divorce, Allah is All-Hearing, All-Knowing*." (Sūrat al-Baqarah: 225-6) [1548] Mālik, ash-Shāfiʿī and Aḥmad held that after the four months the divorce is not executed until the man is given the choice and decides to carry on with it.

[1549] Abū Yūsuf narrated it on p.180.

[1550] It is narrated that al-Ḥasan said, "Neither demolishes the other," as is narrated by ʿAbd ar-Razzāq.

[1551] Abū Yūsuf narrated it on p.150.

[1552] *rahn*: a pledge, that which is deposited with a person as a substitute for something taken from him. [Here it is a wager placed so that whichever horse comes in first takes the wager. – Trans.] It means that if the *ʿiddah* [of divorce], which is three menstrual periods, comes to an end before his *īlāʼ*, which is four months, then she is divorced finally from him by that divorce and she does not have an *īlā’* since when the four months came to an end she is no longer married to him. If the four months come to an end and she is still in her *ʿiddah* [from the divorce] then she becomes finally divorced from him [because of the *īlā’*] along with that divorce and so they are counted as two divorces. So he regarded them as two horses racing for a wager.

[1553] Abū Yūsuf narrated it on p.149.

[1554] Lexically, *ẓihār* is when a man says to a woman, “To me you are as my mother’s back.” (See Sūrat al-Mujādilah) Technically, it is to make a resemblance between a woman one is married to and a woman whom it is forever *ḥarām* for one to marry.

[1555] Since the act of making them *ḥarām* is firmly established for each one of them. The expiation is to bring an end to the state of being *ḥarām*, and thus the number of expiations has to be according to the number of acts of declaring *ḥarām*.

[1556] Abū Yūsuf narrated it on p.150.

[1557] Abū Yūsuf narrated it on p.151.

[1558] Abū Yūsuf narrated it on p. 151.

[1559] Even if he delays paying the *kaffārah* for more than four months and thus abstains from intercourse with her for that time, it is not an *īlā’* divorce.

[1560] i.e., a *sayyi’ah* wrong action.

[1561] Abū Yūsuf narrated it on p.151.

[1562] *illā bi dhāti maḥram*: i.e., by declarations such as “To me you are as my sister’s back.”

COMPENSATORY PAYMENTS AND RETALIATION

بَابُ الدِّيَاتِ وَمَا يَجِبُ عَلَى أَهْلِ الْوَرِقِ وَالْمَوَاشِي

176. COMPENSATORY PAYMENTS (*DIYĀT*)[1563] FOR FATALITIES AND WHAT IS DUE FROM PEOPLE WHO USE SILVER [AS CURRENCY] AND THOSE FOR WHOM CATTLE [ARE WEALTH]

٥٥٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنِ الْهَيْثَمِ عَنْ عَامِرِ الشَّعْبِيِّ عَنْ عُبَيْدَةَ السَّلْمَانِيِّ عَنْ عُمَرَ بْنِ الْخَطَّابِ رَضِيَ اللهُ عَنْهُ قَالَ : عَلَى أَهْلِ الْوَرِقِ مِن الدِّيَةِ عَشَرَةُ آلَافِ دِرْهَمٍ ، وَعَلَى أَهْلِ الذَّهَبِ أَلْفُ دِينَارٍ ، وَعَلَى أَهْلِ الْبَقَرِ مِائَتَا بَقَرَةٍ ، وَعَلَى أَهْلِ الإِبِلِ مِائَةٌ مِنَ الإِبِلِ ، وَعَلَى أَهْلِ الْغَنَمِ أَلْفَا شَاةٍ ، وَعَلَى أَهْلِ الْحُلَلِ مِائَتَا حُلَّةٍ .

554. Muḥammad said, "Abū Ḥanīfah informed us from al-Haytham from ʿĀmir ash-Shaʿbī from ʿUbaydah as-Salmānī from ʿUmar ibn al-Khaṭṭāb رضي الله عنه who said, 'For the people who use silver their compensatory payment for a fatality is ten thousand dirhams, and for the people who use gold it is one thousand dinars. For the people [whose wealth is in] cows it is two hundred cows, and for the people [whose wealth is in] camels it is two hundred camels. For the people [whose wealth is in] sheep and goats it is a thousand ewes. For the people [whose wealth is in] garments,[1564] it is two hundred sets of garments.'"[1565]

قَالَ مُحَمَّدٌ : وَبِهَذَا كُلِّه نَأْخُذُ ، وكان أَبُو حَنِيفَةَ يَأْخُذُ من ذَلِكَ بِالإِبِلِ ، وَالدَّرَاهِمِ ، وَالدَّنَانِيرِ .

Muḥammad said, “We adhere to all of this, and Abū Ḥanīfah[1566] used to adhere to that of it set in camels, dirhams and dinars.”

◆

بَابُ دِيَةِ مَا كَانَ فِي الإِنْسَانِ مِنْهُ وَاحِدَةٌ

177. THE COMPENSATORY PAYMENT FOR THAT OF WHICH A MAN ONLY OWNS ONE

٥٥٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ فِي اللِّسَانِ إِذَا قُطِعَ مِنْهُ شَيْءٌ فَامْتَنَعَ من الْكَلامِ ، أَوْ قُطِعَ من أَصْلِه فَفِيهِ الدِّيَةُ .

555. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If anything of the tongue is cut off which prevents speech or if it is cut off at its root then a complete compensatory payment is due.’”[1567]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٥٥٦ – مُحَمَّدٌ قَالَ أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : كُلُّ شَيْءٍ من الإِنْسَانِ إِذَا لَمْ يَكُنْ فِيهِ إِلَّا شَيْءٌ وَاحِدٌ ، فَأُصِيبَ خَطَأً فَفِيهِ الدِّيَةُ كَامِلَةً : الأَنْفُ ، وَالذَّكَرُ ، وَاللِّسَانُ ، وَالصُّلْبُ ، وَذَهَابُ الْعَقْلِ وَأَشْبَاهِه ، وَمَا كَانَ فِي الإِنْسَانِ اثْنَيْنِ فَفِي كُلِّ وَاحِدٍ مِنْهَا نِصْفُ الدِّيَةِ : الثَّدْيَيْنِ ، وَالرِّجْلَيْنِ ، وَالْعَيْنَيْنِ وَأَشْبَاهِ ذَلِكَ .

556. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Everything a person has only one of which is destroyed by

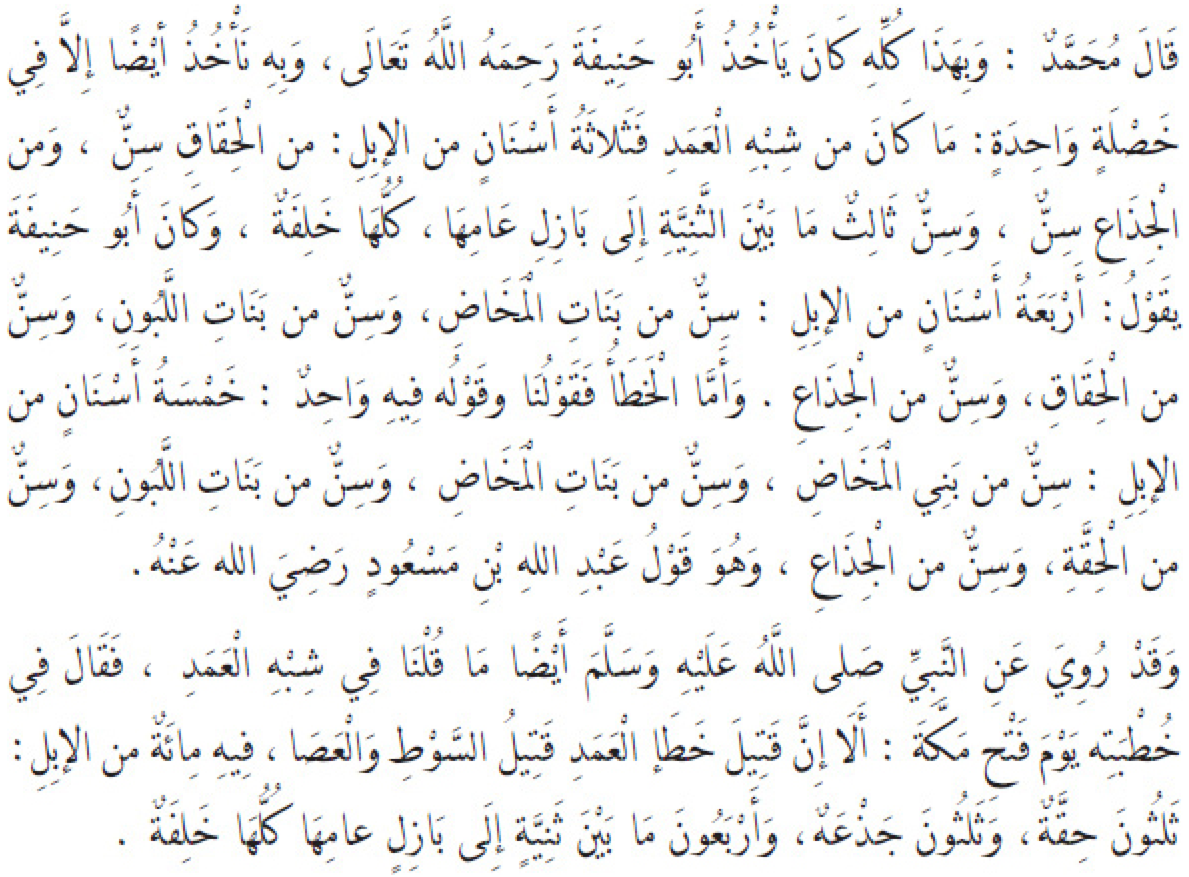
mistake, there is due a complete compensatory payment: the nose, the penis, the tongue, the spine or the departure of the intellect and the like. Everything which a person has two of, for each of them there is due a half of the compensatory payment [due for fatalities]: female breasts, legs, eyes and the like.'"

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

٥٥٧ – مُحَمَّدٌ قَالَ أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : مَا أُصِيبَ من ذَلِكَ من شَيْءٍ عَمَدًا فَفِيهِ الْقِصَاصُ وَمَا لَمْ يَسْتَطِعْ فِيهِ الْقِصَاصَ فَفِيهِ الدِّيَةُ ، فَإِنْ كَانَ خَطَأً فَخَمْسَةُ أَسْنَانٍ من الإِبِلِ ، وَإِنْ كَانَ شِبْهَ الْعَمَدِ فَأَرْبَعَةُ أَسْنَانٍ من الإِبِلِ ، وَشِبْهُ الْعَمَدِ من الْجِرَاحَاتِ كُلُّ شَيْءٍ تَعَمَّدَ ضَرْبَهُ بِسِلاحٍ أَوْ غَيْرِهِ ، وَلَمْ يَسْتَطِعْ فِيهِ الْقِصَاصَ فِيهِ الدِّيَةُ مُغَلَّظَةٌ .

557. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, 'Any of that which is done intentionally, there is retaliation for it. Anything for which one is not able to retaliate, there is [full] compensatory payment. If it was by mistake, there are due five lots[1568] of camels. If it is with quasi-deliberate intent,[1569] four lots of camels are due for it, and quasi-deliberate intent in injuries is everything in which someone intended to strike with a weapon or something else, and [for such cases] in which retaliation is not possible, then a severe compensatory payment is due for it.'"



قَالَ مُحَمَّدٌ : وَبِهَذَا كُلِّهِ كَانَ يَأْخُذُ أَبُو حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى ، وَبِهِ نَأْخُذُ أَيْضًا إِلَّا فِي خَصْلَةٍ وَاحِدَةٍ: مَا كَانَ مِن شِبْهِ الْعَمَدِ فَثَلَاثَةُ أَسْنَانٍ مِن الإِبِلِ: مِن الْحِقَاقِ سِنٌّ ، وَمِن الْجِذَاعِ سِنٌّ ، وَسِنٌّ ثَالِثٌ مَا بَيْنَ الثَّنِيَّةِ إِلَى بَازِلِ عَامِهَا ، كُلُّهَا خَلِفَةٌ ، وَكَانَ أَبُو حَنِيفَةَ يَقُولُ: أَرْبَعَةُ أَسْنَانٍ مِن الإِبِلِ : سِنٌّ مِن بَنَاتِ الْمَخَاضِ، وَسِنٌّ مِن بَنَاتِ اللَّبُونِ، وَسِنٌّ مِن الْحِقَاقِ، وَسِنٌّ مِن الْجِذَاعِ . وَأَمَّا الْخَطَأُ فَقَوْلُنَا وَقَوْلُه فِيهِ وَاحِدٌ : خَمْسَةُ أَسْنَانٍ مِن الإِبِلِ : سِنٌّ مِن بَنِي الْمَخَاضِ ، وَسِنٌّ مِن بَنَاتِ الْمَخَاضِ ، وَسِنٌّ مِن بَنَاتِ اللَّبُونِ، وَسِنٌّ مِن الْحِقَّةِ، وَسِنٌّ مِن الْجِذَاعِ ، وَهُوَ قَوْلُ عَبْدِ اللهِ بْنِ مَسْعُودٍ رَضِيَ الله عَنْهُ .

وَقَدْ رُوِيَ عَنِ النَّبِيِّ صَلى اللَّهُ عَلَيْهِ وَسَلَّمَ أَيْضًا مَا قُلْنَا فِي شِبْهِ الْعَمَدِ ، فَقَالَ فِي خُطْبَتِه يَوْمَ فَتْح مَكَّةَ : أَلَا إِنَّ قَتِيلَ خَطَإِ الْعَمَدِ قَتِيلُ السَّوْطِ وَالْعَصَا ، فِيهِ مِائَةٌ مِن الإِبِلِ: ثَلُثُونَ حِقَّةٌ ، وَثَلُثُونَ جَذْعَةٌ ، وَأَرْبَعُونَ مَا بَيْنَ ثَنِيَّةٍ إِلَى بَازِلِ عَامِهَا كُلُّهَا خَلِفَةٌ .

Muḥammad said, “Abū Ḥanīfah used to adhere to all of this,[1570] may Allah, exalted is He, have mercy on him, and we ourselves also adhere to it except in one respect: For those things which are of quasi-deliberate intent three lots[1571] of camels are due: a lot of three-year old female camels which have entered their fourth year,[1572] a lot of five-year old camels,[1573] a third lot of camels in between six-years old and [eight-to-nine-years old] that have passed a year after cutting their canine teeth,[1574] all of [the forty of] which are pregnant. Abū Ḥanīfah used to say, ‘Four lots of camels: a lot of camels which have entered their second year,[1575] a lot of camels which have entered their third year,[1576] a lot of camels which have entered their fourth year and a lot of camels which have entered their fifth year.’ As for unintentional homicide our verdict and his verdict are the same: five lots of camels. There should be a lot of male camels which have entered their second year, a lot of female camels which have entered their second year, a lot of female camels which have entered their third year, a lot of female camels which have entered their fourth year, and a lot of female camels which have entered their fifth year, and that is the verdict of ʿAbdullāh ibn Masʿūd ؓ. That which we have narrated about quasi-intentional homicide has also been narrated from the Prophet ﷺ. He said during his address on the day of the Opening of Makkah [to Islam], ‘Certainly, the person who is killed unintentionally, someone killed by the lash or by a staff, then one hundred camels is due from him: thirty females which have entered their fourth year, thirty females which have entered their fifth year, and forty females which are in between six-years old and [eight-to-nine-years old] that have passed a year after cutting their canine teeth, all [forty of] which are pregnant.’”

٥٥٨ – بَلَغَنَا نَحْوُ ذَلِكَ عَنْ عُمَرَ بْنِ الْخَطَّابِ رَضِيَ اللهُ عَنْهُ يَرْفَعُ : مِنْهَا أَرْبَعُونَ فِي
بُطُونِهَا أَوْلادُهَا . وَبَلَغَنَا نَحْوُ ذَلِكَ عَنْ عُمَرَ بْنِ الْخَطَّابِ ، وَالْمُغِيرَةِ بْنِ شُعْبَةَ ، وَأَبِي
مُوسَى الأَشْعَرِيِّ ، وَزَيْدِ بْنِ ثَابِتٍ رَضِيَ اللهُ عَنْهُمْ . وَبِهِ نَأْخُذُ .

558. “The same as that has reached us from ʿUmar ibn al-Khaṭṭāb ؓ which he ascribed directly [to the Prophet ﷺ], ‘Of them there are forty in whose wombs there are their offspring.’ The same as that has reached us from ʿUmar ibn al-Khaṭṭāb ؓ, al-Mughīrah ibn Shuʿbah, Abū Mūsā al-Ashʿarī and Zayd ibn Thābit ؓ and we adhere to it.”

٥٥٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنِ الْهَيْثَمِ عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ رَضِيَ اللهُ
عَنْهُ فِي الرَّجُلِ يَحْلِقُ لِحْيَةَ الرَّجُلِ ، فَلا تَنْبُتُ قَالَ : عَلَيْهِ الدِّيَةُ .

559. Muḥammad said, “Abū Ḥanīfah informed us from al-Haytham from ʿAlī ibn Abī Ṭālib ؓ concerning a man who shaves off another man’s beard to such an extent that it will not regrow, that he said, ‘He owes the full compensatory payment.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

بَابُ دِيَةِ الأَسْنَانِ وَالأَشْفَارِ وَالأَصَابِعِ

178. COMPENSATORY PAYMENT FOR TEETH, THE EYELASHES AND FINGERS

٥٦٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : أَصَابِعُ الْيَدَيْنِ وَالرِّجْلَيْنِ سَوَاءٌ ، فِي كُلِّ إِصْبَعٍ عُشْرُ الدِّيَةِ .

560. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, 'The fingers of the hands and [the toes] of the feet are the same, for each digit there is a tenth of the [full] compensatory payment.'"[1577]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

٥٦١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ شُرَيْحٍ قَالَ : الأَسْنَانُ سَوَاءٌ ، فِي كُلِّ سِنٍّ نِصْفُ عُشْرِ الدِّيَةِ .

561. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm from Shurayḥ who said, 'The teeth are all the same:[1578] for each tooth there is a twentieth of the [full] compensatory payment.'"[1579]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

٥٦٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ قَالَ: فِي
السِّمْحَاقِ وَالْبَاضِعَةِ وَأَشْبَاهِ ذَلِكَ إِذَا كَانَ خَطَأً أَوْ عَمَدًا لا يُسْتَطَاعُ فِيهِ الْقِصَاصُ فَفِيهِ
حُكُومَةُ عَدْلٍ .

562. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm who said, “For [wounds] that reach to the thin skin above the skull[1580] and flesh wounds[1581] and the like, whether unintentional or intentional, for which retaliation is impossible, then a just and knowledgeable person must assess a suitable compensation.”’”[1582]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٥٦٣ – قَالَ مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ شُرَيْحٍ قَالَ:
فِي الْجَائِفَةِ ثُلُثُ الدِّيَةِ ، وَفِي الآمَّةِ ثُلُثُ الدِّيَةِ ، فَإِذَا ذَهَبَ الْعَقْلُ فَالدِّيَةُ كَامِلَةٌ ، وَفِي
الْمُنَقِّلَةِ عُشْرٌ وَنِصْفُ عُشْرِ الدِّيَةِ . وَفِي الْمُوضِحَةِ نِصْفُ عُشْرِ الدِّيَةِ ، وَفِي سَائِرِ ذَلِكَ
مِن الْجِرَاحَاتِ حُكْمُ عَدْلٍ . وَلَا تَكُونُ الْمُوضِحَةُ إِلَّا فِي الْوَجْهِ وَالرَّأْسِ ، وَلَا تَكُونُ
الْجَائِفَةُ إِلَّا فِي الْجَوْفِ.

563. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm from Shurayḥ who said, ‘For wounds that penetrate deep inside[1583] there is due a third of the [full] compensatory payment, and for head wounds which lay bare the brain[1584] there is a third of the compensatory payment. If a person loses consciousness [and is in a coma], the entire compensatory payment is due. For head wounds that remove some of the bone of the head,[1585] there is due a tenth and a twentieth of the compensatory payment, and for wounds that lay bare the bone[1586] there is a twentieth of the compensatory payment, and for every other kind of wound a suitable compensation must be assessed by a just and knowledgeable

person. The wound that lays bare the bone is only with respect to the face and the head, and a wound that penetrates deep inside is only with respect to the abdomen.’”[1587]

قَالَ مُحَمَّدٌ : وَبِهَذَا كُلِّهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى . وَالآمَّةُ من
الشِّجَاجِ كُلُّ شَجَّةٍ بَلَغَتِ الدِّمَاغَ ، وَالْمُنَقِّلَةُ مَا نُقِلَ مِنْهَا الْعِظَامُ ، وَالْمُوضِحَةُ مَا أَوْضَحَتْ
عَنِ الْعَظْمِ ، وَالْهَاشِمَةُ مَا أَهْشَمَتِ الْعَظْمَ ، وَحُكُومَتُهَا عُشْرُ الدِّيَةِ ، وَهُوَ قَوْلُ أَبِي
حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى . وَالسِّمْحَاقُ دُونَ الْمُوضِحَةِ بَيْنَهَا وَبَيْنَ الْمُوضِحَةِ جِلْدَةٌ رَقِيقَةٌ ،
وَفِيهَا حُكْمُ عَدْلٍ .

بَلَغَنَا أَنَّ عَلِيَّ بْنَ أَبِي طَالِبٍ رَضِيَ الله عَنْهُ حَكَمَ فِيهَا أَرْبَعًا من الإِبِلِ . وَالْبَاضِعَةُ دُونَ
السِّمْحَاقِ ، وَهِيَ الَّتِي تَبْضَعُ اللَّحْمَ ، وَفِيهَا حُكْمُ عَدْلٍ ، وَالدَّامِيَةُ دُونَ الْبَاضِعَةِ ،
وَهِيَ الَّتِي تَشُقُّ الْجِلْدَ ، وَفِيهَا حُكْمُ عَدْلٍ ، وَالْمُتَلاحِمَةُ وَهِيَ الشَّجَّةُ يَسْوَدُّ مَوْضِعُهَا أَوْ
يَحْمَرُّ ، وَلَا يَدْمَى وَلَا يَبْضَعُ فَفِيهَا حُكْمُ عَدْلٍ ، وَنَرَى كُلَّ شَيْءٍ مَا كَانَ من ذَلِكَ دُونَ
الْمُوضِحَةِ لا تَعْقِلُهُ الْعَاقِلَةُ ، وَهُوَ فِي مَالِ الرَّجُلِ وَإِنْ كَانَ خَطَأً .

Muḥammad said, “We adhere to all of this, and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him. *Āmmah* comprise every head wound[1588] which reaches to the brain. *Munaqqilah* are those by which bone is moved or removed. *Mūḍiḥah* wounds comprise those which lay bare the bone and *hāshimah* wounds are whatever break the bone, the ruling on both of which is that a tenth of the compensatory payment is due, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him. *Simḥāq* wounds [which stop short at the fine layer of skin above the bone] are less severe than those which lay bare the bone; between them and wounds which lay bare the bone there is a fine thin skin. For them a suitable compensation must be assessed by a just and knowledgeable person. It has reached us that ʿAlī ibn Abī Ṭālib ؓ gave judgement concerning them that four camels were due. *Bāḍiʿah* flesh wounds are less severe than those wounds which stop short at the thin skin/filament over the bone and are those which cut off some of the flesh, and for that a suitable compensation must be assessed by a just person. A *dāmiyah* wound which causes bleeding is less severe than a flesh wound and it is the type which splits the skin, and a just and knowledgeable person must assess a suitable compensation. The *mutalāḥimah*[1589] is the wound which blackens or reddens its site without bleeding or removing flesh, and a just and knowledgeable person must assess a suitable compensation. We think that everything of that which is less than a flesh wound is not to be paid by those who pay the compensatory payment on behalf of the man but is due from the property of the man himself, even if it was unintentional."

٥٦٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : فِي أَشْفَارِ الْعَيْنَيْنِ الدِّيَةُ كَامِلَةً إِذَا لَمْ تَنْبُتْ ، وَفِي كُلِّ وَاحِدَةٍ مِنهُنَّ رُبُعُ الدِّيَةِ ، وَفِي الْجُفُونِ الدِّيَةُ ، وَفِي كُلِّ جَفْنٍ مِنْهَا رُبُعُ الدِّيَةِ ، وَفِي الشَّفَتَيْنِ الدِّيَةُ ، وَفِي كُلِّ وَاحِدَةٍ مِنهُمَا نِصْفُ الدِّيَةِ .

564. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, 'For all the eyelashes[1590] the entire compensatory payment is due if they do not regrow, but for each one of them singly a quarter of the full compensatory payment is due. For all the eyelids the entire compensatory payment is due, but for each eyelid a quarter of the full compensatory payment is due. For both lips the full compensatory payment is due, but for each one of them a half of the full compensatory payment is due.'"

قَالَ مُحَمَّدٌ : وَبِهذا كُلِّه نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to all of this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

بَابُ مَا لا يُسْتَطَاعُ فِيهِ الْقِصَاصُ

179. THOSE THINGS FOR WHICH ONE IS UNABLE TO RETALIATE

٥٦٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الْأَعْمَى يَفْقَأُ عَيْنَ الصَّحِيحِ قَالَ : عَلَيْهِ الدِّيَةُ فِي مَالِهِ .

565. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a blind person who puts out[1591] the eye of a healthy person, ‘He is responsible for paying the compensatory payment from his own wealth.’”[1592] [1593]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ لِأَنَّهُ لَا يُسْتَطَاعُ الْقِصَاصُ فِي ذَلِكَ ، وَإِنَّمَا يَعْنِي الْعَمْدَ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this because retaliation is not possible[1594] for that and it only means in cases where it was intentional, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٥٦٦ – قَالَ مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : مَن ضَرَبَ بِحَدِيدَةٍ أَوْ بِعَصًا فِيمَا لَا يُسْتَطَاعُ فِيهِ الْقِصَاصُ فَعَلَيْهِ الدِّيَةُ فِي مَالِهِ مُغَلَّظَةً .

566. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Whoever strikes with an iron implement or a staff [causing an injury] for which retaliation is not possible must pay the severe compensatory payment from his own property.’”[1595]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى ، وَذَلِكَ فِيمَا دُونَ النَّفْسِ .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him, and that is for anything less than homicide.”[1596]

٥٦٧ – قَالَ مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : مَا كَانَ مِن شِبْهِ الْعَمَدِ فِيهَا دُونَ النَّفْسَ فَفِي مَالِه ، وَهُوَ كُلُّ شَيْءٍ ضَرَبْتَه مُتَعَمِّداً لا يُسْتَطَاعُ فِيهِ الْقِصَاصُ .

567. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Everything less than homicide of the category considered to have been done with quasi-deliberate intent, [the compensatory payment] is due from the perpetrator’s own property, and it is in every case in which someone hits someone else intentionally in which retaliation is not possible.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٥٦٨ – قَالَ مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : الْقَتْلُ عَلى ثَلاثَةِ أَوْجُهٍ : قَتْلُ خَطَإٍ ، وَقَتْلُ عَمَدٍ ، وَقَتْلُ شِبْهِ الْعَمَدِ ، فَالْخَطَأُ : أَنْ تُرِيدَ الشَّيْءَ فَتُصِيبَ صَاحِبَكَ بِسِلاحٍ أَوْ غَيْرِه ، فَفِيهِ الدِّيَةُ أَخْمَاسًا . وَالْعَمَدُ : إِذَا تَعَمَّدْتَ صَاحِبَكَ فَضَرَبْتَه بِسِلاحٍ، فَفِي هَذَا قِصَاصٌ إِلاَّ أَنْ يَصْطَلِحُوا أَوْ يَعْفُوا . وَشِبْهُ الْعَمَدِ : كُلُّ شَيْءٍ تَعَمَّدْتَ ضَرْبَه بِغَيْرِ سَلاحٍ، فَفِيهِ الدِّيَةُ مُغَلَّظَةٌ عَلَى الْعَاقِلَةِ إِذَا أَتى ذَلِكَ عَلَى النَّفْسِ . وَشِبْهُ الْعَمَدِ فِي الْجِرَاحَاتِ، كُلُّ شَيْءٍ تَعَمَّدْتَ ضَرْبَه بِسِلاحٍ أَوْ غَيْرِه فَلَمْ يَسْتَطِعْ فِيهِ الْقِصَاصَ ، فَفِيهِ الدِّيَةُ مُغَلَّظَةٌ .

568. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘There are three types of homicide: involuntary manslaughter, murder and quasi-intentional homicide. Involuntary[1597] manslaughter is when someone intends something [else] but strikes his fellow with a weapon[1598] or something else, in which case compensatory payment is due for that, [paid] in cloaks.[1599] Murder (intentional homicide) is when

someone deliberately intends his fellow and strikes him with a weapon, and for this there is retaliation[1600] unless they [the deceased's heirs] reconcile[1601] or pardon.[1602] Quasi-intentional homicide is every case in which someone intends to strike someone else without a weapon[1603] [with a resultant death], then for this there is a severe compensatory payment [to be paid] by the paternal male relatives [ʿ*āqilah*], due from those who pay the compensatory payment, if that results in death. Quasi-intentional injury is every case in which someone deliberately intends to hit someone else with a weapon or something else, but for which retaliation is impossible, then for that severe compensatory payment must be paid.'"

قَالَ مُحَمَّدٌ : وَبِهَذَا كُلِّهِ نَأْخُذُ ، إِلَّا فِي خَصْلَةٍ وَاحِدَةٍ مَا ضَرَبْتَهُ مِن غَيْرِ سِلَاحٍ وَهُوَ يَقَعُ مَوْقِعَ السِّلَاحِ أَوْ أَشَدَّ ، فَفِيهِ أَيْضًا الْقِصَاصُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ الْأَوَّلُ ، وَلَا قِصَاصَ فِي قَوْلِهِ الْأَخِيرِ إِلَّا فِيمَا كَانَ بِسِلَاحٍ.

Muḥammad said, "We adhere to all of this except in one respect: whenever someone strikes someone else without a weapon but with something which takes the place of a weapon[1604] or worse, then there is also retaliation for that, and that was Abū Ḥanīfah's earlier verdict. However, there is no retaliation in his later verdict except for what was done with a weapon."

٥٦٩ – قَالَ مُحَمَّدٌ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنِ الْهَيْثَمِ بْنِ أَبِي الْهَيْثَمِ عَنْ رَجُلٍ عَنْ أَبِي بَكْرٍ الصِّدِّيقِ رَضِيَ اللهُ عَنْهُ فِي رَجُلٍ رَمَى رَجُلًا بِسَهْمٍ ، فَأَنْفَذَهُ ، فَجَعَلَ فِيهِ ثُلُثَيِ الدِّيَةِ .

569. Muḥammad said, "Abū Ḥanīfah informed us from al-Haytham ibn Abī'l-Haytham from a man from Abū Bakr aṣ-Ṣiddīq ﵁ concerning a man who shot another man with an arrow that pierced him,[1605] and he decided that he should have to pay two-thirds of the full compensatory payment for it."

قَالَ مُحَمَّدٌ : وَبِهَذَا كُلِّهِ نَأْخُذُ ، فِي الْجَائِفَةِ ثُلُثُ الدِّيَةِ ، فَإِنْ نَفَذَتْ إِلَى الْجَانِبِ الْآخَرِ فَفِيهَا ثُلُثَا الدِّيَةِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ.

Muḥammad said, “We adhere to all of this. For something which penetrates the abdomen a third of the full compensatory payment is due, but if it pierces him except for the very last part of it, then two thirds of the compensatory payment is due for it, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٥٧٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : كُلُّ شَيْءٍ كَانَ دُونَ النَّفْسِ يَتَعَمَّدُ الإِنْسَانُ ضَرْبَه بِحَدِيدَةٍ ، أَوْ بِعَصًا ، أَوْ بِيَدٍ ، أَوْ بِقَصَبَةٍ أَوْ بِغَيْرِ ذَلِك فَهُوَ عَمَدٌ ، وَفِيهِ الْقِصَاصُ ، وَإِنْ كَانَ لا يُسْتَطَاعُ فِيهِ الْقِصَاصُ فَهُوَ عَلَى الَّذِي جَنَى فِي مَالِه ، فَإِنْ ذَهَبَتْ مِنْهُ النَّفْسُ فَكَانَ بِحَدِيدَةٍ أَوْ بِسِلاحٍ فَفِيهِ الْقِصَاصُ ، وَإِنْ كَانَ بِغَيْرِ ذَلِك فَفِيهِ الدِّيَةُ عَلَى الْعَاقِلَةِ .

570. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Everything apart from taking a life, which a person has done deliberately, striking with an iron implement, a staff, a hand, a cane or anything else, then that is deliberate and there is retaliation for it. If retaliation is not possible for it, the person who caused the injury must pay [compensation] for it from his own property. If the person dies from it and it was done with an iron implement or a weapon, then retaliation is due for it. If it was done with something else, then the ʿ*āqilah* [paternal male relatives] must pay the compensatory payment.’”

قَالَ مُحَمَّدٌ : وَبِهَذَا كُلِّه كَانَ يَأْخُذُ أَبُو حَنِيفَةَ ، وَبِه نَأْخُذُ نَحْنُ أَيْضًا ، إِلاَّ فِي خَصْلَةٍ وَاحِدَةٍ : إِذَا ضَرَبَه بِغَيْرِ سِلاحٍ يَقَعُ مَوْقِعَ السِّلاحِ فَفِيهِ الْقَوَدُ ، وَهُوَ فِي قَوْلِ أَبِي يُوسُفَ ، وَهُوَ قَوْلُنَا .

Muḥammad said, “Abū Ḥanīfah used to adhere to all of this and we also adhere to it except in one respect: if he struck him with something other than a weapon which nevertheless took the place of a weapon then retaliation is due for it, and that is the verdict of Abū Yūsuf and it is our verdict.”

بَابُ دِيَةِ الْخَطَاءِ وَمَا تَعْقِلُ الْعَاقِلَةُ

180. COMPENSATORY PAYMENT FOR AN INVOLUNTARY ACT AND THAT WHICH THE ʿ*ĀQILAH*[1606] PAY

٥٧١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي دِيَةِ الْخَطَاءِ وَشِبْهِ الْعَمَدِ فِي النَّفْسِ عَلَى الْعَاقِلَةِ : عَلَى أَهْلِ الْوَرِقِ فِي ثَلاثَةِ أَعْوَامٍ ، لِكُلِّ عَامٍ الثُّلُثُ ، وَمَا كَانَ مِن الْجَرَاحَاتِ الْخَطَاءِ فَعَلَى الْعَاقِلَةِ عَلَى أَهْلِ الدِّيوَانِ إِنْ بَلَغَتِ الْجَرْحَةُ ثُلُثَيِ الدِّيَةِ فَفِي عَامَيْنِ ، وَإِنْ كَانَ النِّصْفَ فَفِي عَامَيْنِ ، وَإِنْ كَانَ الثُّلُثَ فَفِي عَامٍ ، وَذَلِكَ كُلُّهُ عَلَى أَهْلِ الدِّيوَانِ .

571. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning the compensatory payment for unintentional and quasi-intentional homicide due from the ʿ*āqilah*, ‘It must be paid by the people who use silver [as a currency] over three years, one third each year. Whatever unintentional wounds there are, [then the compensatory payment] is the responsibility of the ʿ*āqilah*, the people of the register (*dīwān*).[1607] If the wound amounts to two-thirds of the full compensatory payment, it is to be paid in two years. If it is a half [of the full compensatory payment], it is to be paid in two years. If it is one third, it is to be paid in one year. All of that is due from the people of the register.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَذلِكَ فِي أَعْطِيَةِ الْمُقَاتِلَةِ دُونَ أَعْطِيَةِ الذُّرِّيَّةِ وَالنِّسَاءِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. That is due from the stipends[1608] of fighting men and not from the stipends of children and women. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٥٧٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : لَا تَعْقِلُ الْعَاقِلَةُ فِي أَدْنَى من الْمُوضِحَةِ .

572. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘The ʿ*āqilah* do not pay[1609] for anything less than wounds that lay bare the bone.’”[1610]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٥٧٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : لا تَعْقِلُ الْعَاقِلَةُ عَمْدًا ، وَلَا صُلْحًا ، وَلَا اعْتِرَافًا .

573. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘The ʿ*āqilah* do not pay for deliberate crimes,[1611] or something agreed after a dispute[1612] nor something confessed.’”[1613]

٥٧٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : مَا كَانَ من صُلْحٍ ، أَوْ اعْتِرَافٍ ، أَوْ عَمْدٍ فَهُوَ فِي مَالِ الرَّجُلِ .

574. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Whatever is agreed after a dispute, or confessed to, or a deliberate crime, then it is paid from the man’s property [and not by the ʿ*āqilah*].’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٥٧٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا شَهِدُوا أَنَّهُ ضَرَبَهُ وَهُوَ صَحِيحٌ، فَلَمْ يَزَلْ صَاحِبَ فِرَاشٍ حَتَّى مَاتَ جَازَتْ شَهَادَتُهُمْ ، وَلَمْ يُكَلَّفُوا غَيْرَ ذَلِكَ . وَقَالَ إِبْرَاهِيمُ فِي الرَّجُلِ يُضْرَبُ، فَيَمُوتُ، فَيَشْهَدُ الشُّهُودُ: أَنَّهُ لَمْ يَزَلْ صَاحِبَ فِرَاشٍ حَتَّى مَاتَ قَالَ : أُقِيدُ مِنْهُ ، وَآخُذُ لَهُ من الْعَاقِلَةِ الدِّيَةَ إِنْ كَانَ خَطَأً .

575. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If they testify that he struck him and he was healthy, but remained confined to his bed until he died, their testimony is valid and they are not charged with more than that.’ Ibrāhīm spoke concerning someone who is struck and dies and the witnesses testify[1614] that he remained confined to his bed[1615] until he died, and he said, ‘I would free him[1616] and would accept the compensatory payment from his ʿ*āqilah* if it was unintentional.’”[1617]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٥٧٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : تَعْقِلُ الْعَاقِلَةُ الْخَطَأَ كُلَّهُ إِلَّا مَا كَانَ دُونَ الْمُوضِحَةِ ، وَالسِّنُّ مِمَّا لَيْسَ فِيهِ أَرْشٌ مَعْلُومٌ .

576. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘The ʿ*āqilah* pay for all unintentional acts except what is less than a wound laying bare the bone, or a tooth, for which there is no known compensatory payment.’”[1618]

قَالَ مُحَمَّدٌ : وَبِهَذَا كُلِّهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to all of this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٥٧٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ عَنِ النَّبِيِّ صلى الله عَلَيْهِ وَسَلَّمَ قَالَ: الْعَجْمَاءُ جُبَارٌ ، وَالْقَلِيبُ جُبَارٌ، وَالرِّجْلُ جُبَارٌ ، وَالْمَعْدِنُ جُبَارٌ ، وَفِي الرِّكَازِ الْخُمُسُ .

577. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm from the Prophet ﷺ who said, “No retaliation is taken or compensatory payment made (*jubār*) for a dumb beast,[1619] a well, a leg, a mine;[1620] and from precious minerals a fifth is due.”’”[1621] [1622]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى . وَالْجُبَارُ الْهَدَرُ ، إِذَا سَارَ الرَّجُلُ عَلَى الدَّابَّةِ فَنَفَحَتْ بِرِجْلِهَا وَهِيَ تَسِيرُ فَقَتَلَتْ رَجُلاً، أَوْ جَرَحَتْهُ فَذلِكَ هَدَرٌ ، وَلَا يَجِبُ عَلَى عَاقِلَةٍ وَلَا غَيْرِهَا وَالْعَجْمَاءُ : الدَّابَّةُ الْمُنفَلِتَةُ لَيْسَ لَهَا سَائِقٌ وَلَا رَاكِبٌ تُوطِىءُ رَجُلاً فَتَقْتُلُهُ، فَذلِكَ هَدَرٌ ، وَالْمَعْدِنُ وَالْقَلِيبُ : الرَّجُلُ يَسْتَأْجِرُ الرَّجُلَ يَحْفِرُ لَهُ بِئْرًا أَوْ مَعْدِنًا فَيَسْقُطُ عَنْهُ، فَيَمُوتُ، فَذلِكَ هَدَرٌ ، وَلَا شَيْءَ عَلَى الْمُسْتَأْجِرِ وَلَا عَلَى عَاقِلَتِهِ .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him. *Jubār* means *hadr*[1623] (not to be retaliated for and it goes uncompensated). If a man travelled on a mount and it kicked someone with its hoof[1624] while travelling and killed or injured a man, then that goes uncompensated and compensation is not due from the ʿ*āqilah* or from anyone else. A dumb beast [in the hadith above] is an animal that has escaped without a driver or a rider and which tramples a man and kills him. That also goes unretaliated and uncompensated. As for a mine or a well [in the hadith above], it is when a man hires another man to dig a well or a mine for him and falls from it and dies, then that goes unretaliated and uncompensated, and there is nothing due from the employer[1625] nor from his ʿ*āqilah*.”

◆

بَابُ قَوْمٍ حَفَرُوا حَائِطًا فَوَقَعَ عَلَيْهِم

181. PEOPLE WHO DIG [UNDER] A WALL, WHICH FALLS ON THEM

٥٧٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّهُ قَالَ فِي الْقَوْمِ يَحْفِرُونَ جِدَارًا فَوَقَعَ الْجِدَارُ عَلَيْهِم قَالَ : عَلَيْهِمُ الدِّيَةُ بَعْضُهُمْ لِبَعْضٍ .

578. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that he spoke concerning people who dig [under] a wall and the wall falls on them. He said, ‘They must pay the compensatory payment to each other.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ؛ إِلَّا أَنَّهُ يُرْفَعُ مِن دِيَةِ كُلِّ وَاحِدٍ مِنهُمْ حِصَّتُهُ ، فَإِنْ كَانُوا أَرْبَعَةً بَطَلَ رُبُعُ الدِّيَةِ مِن كُلِّ وَاحِدٍ ، وَإِنْ كَانُوا ثَلَاثَةً بَطَلَ ثُلُثُ الدِّيَةِ مِن كُلِّ وَاحِدٍ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this except that one removes from each person’s compensatory payment his own portion, so that if they are four persons, a quarter of the compensatory payment is annulled for each one of them, and if they are three, a third of the compensatory payment is annulled for each one of them. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ دِيَةِ الْمَرْأَةِ وَجِرَاحَاتِهَا

182. COMPENSATORY PAYMENT FOR WOMEN AND THEIR INJURIES

٥٧٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ قَالَ : قَوْلُ
عَلِيِّ بنِ أَبِي طَالِبٍ رَضِيَ الله عَنْه أَحَبُّ إِلَيَّ من قَوْلِ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ ، وَزَيْدِ بْنِ
ثَابِتٍ ، وَشُرَيْحٍ فِي جَرَاحَاتِ النِّسَاءِ وَالرِّجَالِ .

579. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm who said, “The verdict of ʿAlī ibn Abī Ṭālib ؓ is preferable to me than the verdict of ʿAbdullāh ibn Masʿūd, Zayd ibn Thābit and Shurayḥ concerning injuries to women[1626] and men.”’”[1627]

قَالَ مُحَمَّدٌ : وبِقَوْلِ عليّ رَضِيَ الله عَنْه وإِبْرَاهِيمَ نَأْخُذُ ، كَانَ عَلِيُّ بْنُ أَبِي طَالِب
رَضِيَ الله عَنْه يقَوْلُ : جَرَاحَاتُ النِّسَاءِ عَلَى النِّصْفِ من جَرَاحَاتِ الرِّجَالِ فِي كُلِّ
شَيْءٍ ، وَ كَانَ عَبْدُ اللَّهِ بْنُ مَسْعُودٍ وَ شُرَيْحٌ يقُولان : تَسْتَوِي فِي السِّنِّ وَالْمُوضِحَةِ ،
ثُمَّ عَلَى النِّصْفِ فِيمَا سِوَى ذَلِك ، وَكَانَ زَيْدُ بْنُ ثَابِتٍ رَضِيَ الله عَنْه يقَوْلُ : يَسْتَوِيَانِ
إِلَى ثُلُثِ الدِّيَةِ ، ثُمَّ عَلَى النِّصْفِ فِيمَا سِوَى ذَلِك ، فَقَوْلُ عَلِيِّ بْنِ أَبِي طَالِب رَضِيَ الله
عَنْه عَلَى النِّصْفِ فِي كُلِّ شَيْءٍ أَحَبُّ إِلَيْنَا ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to the verdict of ʿAlī ibn Abī Ṭālib ؓ and Ibrāhīm. ʿAlī ibn Abī Ṭālib ؓ used to say, ‘Injuries to women are evaluated as being worth a half of men’s injuries in every case.’ ʿAbdullāh ibn Masʿūd and Shurayḥ used to say, ‘They are equal with respect to teeth and wounds which lay bare the bone and then they are a half in everything else.’ Zayd ibn Thābit ؓ used to say,[1628] ‘They are equal up until a third of the full compensatory payment,[1629] and then they are a half in everything else.’ The verdict of ʿAlī ibn Abī Ṭālib ؓ concerning the half is preferable to us in every case, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٥٨٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : فِي حُلْمَةِ ثَدْيِ
الْمَرْأَةِ نِصْفُ الدِّيَةِ ، وَ فِي الْحُلْمَتَيْنِ الدِّيَةُ .

580. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘For [damage to or destruction of] the nipple of a woman’s breast a half of the full compensatory payment must be paid, and for two nipples the full compensatory payment must be paid.’”[1630] [1631]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَفِي حُلْمَتَيِ الرَّجُلِ حُكُومَةُ عَدْلٍ ، وهذَا كُلُّه قَوْلُ أَبِي حَنِيفَةَ
رَحِمَهُ اللّٰهُ تَعَالَى.

Muḥammad said, “We adhere to this. For a man’s two nipples, the compensation must be assessed by a just and knowledgeable person, and this is all the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ جِرَاحَاتِ الْعَبِيدِ

183. INJURIES TO SLAVES

٥٨١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : فِي سِنِّ الْعَبْدِ
نِصْفُ عُشْرِ ثَمنِهِ وقَالَ : جَرَاحَاتُ الْعَبْدِ – قَالَ مُحَمَّدٌ : أَظُنُّه قَالَ: – عَلَى
جَرَاحَاتِ الْحُرِّ من قِيمَتِه .

581. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘For [damage to or destruction of] a slave’s tooth a twentieth of his price is due.’[1632] He said, ‘Injuries to slaves...,’”[1633] Muḥammad said, “I think he said, ‘...are [as a fraction of] their prices in proportion to the injuries to free men.’”

قَالَ مُحَمَّدٌ : فبِهَذَا كا يأخذ أَبُو حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى ، وَأَمَّا فِي قَوْلِنا فذلِكَ كُلُّهُ
عَلَى مَا نَقَصَ الْعَبْدُ من قِيمتِه .

Muḥammad said, “Abū Ḥanīfah, may Allah, exalted is He, have mercy on him, used to adhere to all of this. As for our verdict, it is that it is all according to how much the value of the slave has been reduced.”

٥٨٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الْعَبْدِ يُقْتَلُ عَمدًا
قَالَ : فِيهِ الْقَوَدُ ، فَإِنْ قُتِلَ خَطَأً فَقِيمَتُه مَا بَلَغَ ، غَيْرَ أَنَّهُ لا يُجْعَلُ مِثْلَ دِيَةِ الْحُرِّ ، وَيُنْقَصُ
عَنْه عَشَرَةُ دَرَاهِمَ ، وَإِنْ أُصِيبَ من الْعَبْدِ شَيْءٌ يَبْلُغُ ثَمَنه دُفِعَ الْعَبْدُ إِلَى صَاحِبِهِ ، وَغُرِمَ
ثَمَنه كَامِلاً .

582. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a slave who has been deliberately killed, ‘Retaliation is due for him. But if he was killed accidentally his price [must be paid] however much it may amount to, except that it may not amount to as much as the compensatory payment made for a free man[1634] and should be reduced[1635] ten dirhams[1636] below that level. If a slave is injured to such an extent as to amount to his entire value [in the market],[1637] the slave is given to the fellow [who injured him] who owes his entire value.’”

قَالَ مُحَمَّدٌ : وَبِهَذَا كُلِّه كَانَ يَأخذ أَبُو حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى ، وَبِهِ نَأْخُذُ إِلاَّ فِي خَصْلَةٍ
وَاحِدَةٍ : إِذَا أُصِيبَ من الْعَبْدِ مَا يَبْلُغُ ثَمَنه مِثْلَ الْعَيْنَيْنِ وَالْيَدَيْنِ وَالرِّجْلَيْنِ فَسَيِّدُهُ بِالْخِيَارِ ،
إِنْ شَاءَ أَسْلَمَه بِرُمَّتِه ، وَأَخَذَ قِيمَتَه ، وَإِنْ شَاءَ أَمْسَكَه ، وَأَخَذَ مَا نَقَصَه .

Muḥammad said, “Abū Ḥanīfah, may Allah, exalted is He, have mercy on him, used to adhere to all of this and we adhere to it except in one respect: if the slave is injured to such an extent as to amount to his value such as both eyes, both hands or both feet, his owner has a choice: if he wishes he can give him over completely [to the person who injured him] and take his value, and if he wishes he can retain him and take as much as his value has been decreased.”[1638]

٥٨٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا قَتَلَ الْعَبْدُ رَجُلاً حُرّاً عَمَدًا دُفِعَ الْعَبْدُ إِلَى أَوْلِيَاءِ الْمَقْتُولِ ، فَإِنْ شَاءُوا عَفَوْا ، وَإِنْ شَاءُوا قَتَلُوا ، فَإِنْ عَفَوْا رُدَّ الْعَبْدُ إِلَى مَوْلَاهُ لِأَنَّهُ إِنَّمَا كَانَ لَهُمُ الْقِصَاصُ ، وَلَمْ تَكُنْ لَهُمُ الدِّيَةُ .

583. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a slave kills a free man deliberately then the slave is given over to the heirs of the murdered man, who may pardon him if they wish or may kill him if they wish. If they pardon him, then he is returned to his owner because they only had the right to retaliation and not to compensatory payment.’”

قَالَ مُحَمَّدٌ : وَبِهَذَا نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

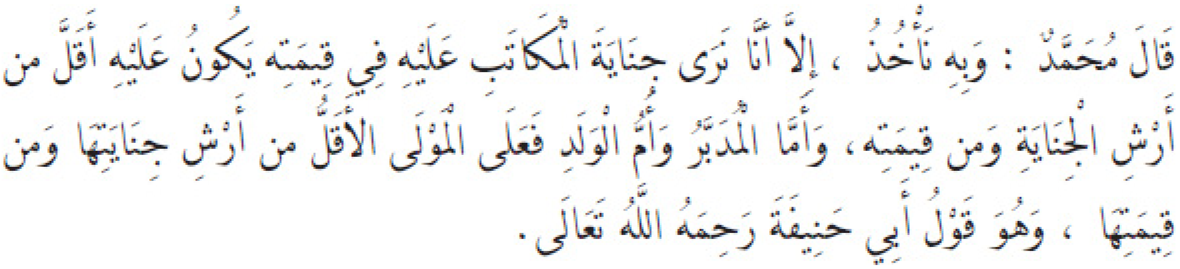
◆

بَابُ جِنَايَةِ الْمُكَاتَبِ وَالْمُدَبَّرِ وَأُمِّ الْوَلَدِ

184. CRIMES OF SLAVES FOR WHOM HAS BEEN WRITTEN A CONTRACT FOR THEM TO PURCHASE THEIR FREEDOM, SLAVES TO BE SET FREE ON THE DEATHS OF THEIR OWNERS, AND SLAVE WOMEN WHO ARE MOTHERS OF HEIRS (*UMM WALAD*)

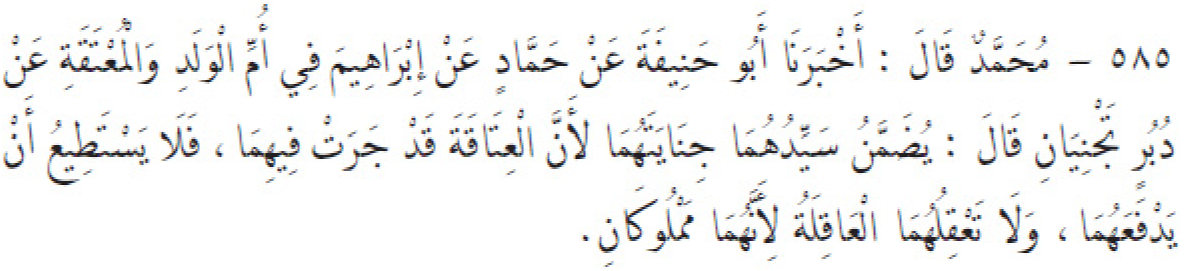
٥٨٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ : أَنَّ جِنَايَةَ الْمُكَاتَبِ وَالْمُدَبَّرِ وَأُمِّ الْوَلَدِ عَلَى الْمَوْلَى .

584. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that, ‘Crimes of slaves for whom there has been written a contract for them to purchase their freedom (*mukātab*), slaves who are to be set free on the deaths of their owners (*mudabbar*), and slave women who are mothers of heirs (*umm walad*) are the responsibility of their owner [to pay compensatory payments].’”[1639] [1640]



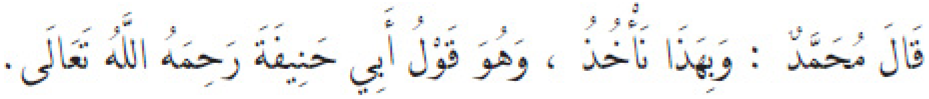
قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، إِلَّا أَنَّا نَرَى جِنَايَةَ الْمُكَاتَبِ عَلَيْهِ فِي قِيمَتِهِ يَكُونُ عَلَيْهِ أَقَلَّ من
أَرْشِ الْجِنَايَةِ وَمن قِيمَتِه ، وَأَمَّا الْمُدَبَّرُ وَأُمُّ الْوَلَدِ فَعَلَى الْمَوْلَى الْأَقَلُّ من أَرْشِ جِنَايَتِهَا وَمن
قِيمَتِهَا ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this except that we think the crime of a *mukātab* slave is his responsibility within his price, whichever is the lesser: the compensatory payment or his price. As for the *mudabbar* slave and the *umm walad*, the owner is responsible for whichever is the lesser: the compensatory payment for the injury or her price, and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”



٥٨٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي أُمِّ الْوَلَدِ وَالْمُعْتَقَةِ عَنْ
دُبُرٍ تَجْنِيَانِ قَالَ : يَضْمَنُ سَيِّدُهُمَا جِنَايَتَهُمَا لِأَنَّ الْعَتَاقَةَ قَدْ جَرَتْ فِيهِمَا ، فَلَا يَسْتَطِيعُ أَنْ
يَدْفَعَهُمَا ، وَلَا تَعْقِلُهُمَا الْعَاقِلَةُ لِأَنَّهُمَا مَمْلُوكَانِ .

585. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning an *umm walad* slave woman and a *mudabbarah* slave woman who cause injuries, ‘Their owner is responsible for the injuries they cause because the act of setting them free has already taken effect,[1641] and so he is unable to use them in payment [of the compensatory payment] nor do the ʿ*āqilah* pay, because they are both still slaves.’”



قَالَ مُحَمَّدٌ : وَبِهَذَا نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٥٨٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ شُرَيْحٍ قَالَ: الْمُكَاتَبُ فِي الْحُدُودِ وَالشَّهَادَةِ عَبْدٌ مَا بَقِيَ عَلَيْهِ دِرْهَمٌ .

586. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm from Shurayḥ who said, ‘With respect to *ḥadd* punishments and testimony, a *mukātab* slave is still a slave as long as he owes a single dirham.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ دِيَةِ الْمُعَاهِدِ

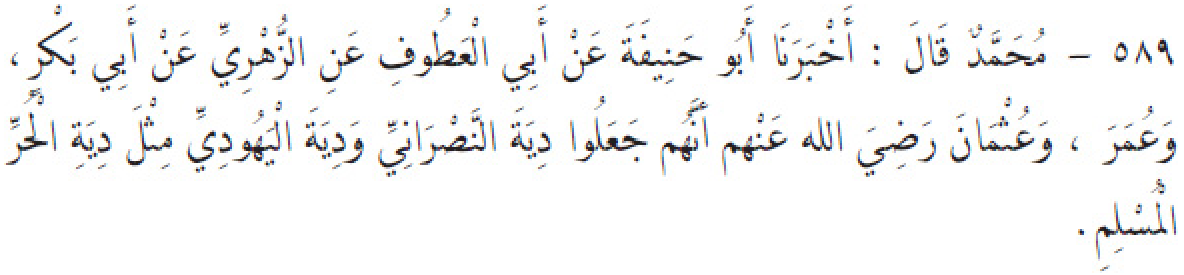
185. COMPENSATORY PAYMENT FOR A NON-MUSLIM LIVING UNDER MUSLIM RULE

٥٨٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنِ الْهَيْثَمِ بْنِ أَبِي الْهَيْثَمِ : أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَ أَبَا بَكْرٍ وَعُمَرَ وَعُثْمَانَ رَضِيَ اللهُ عَنْهُمْ قَالُوا : دِيَةُ الْمُعَاهِدِ دِيَةُ الْحُرِّ الْمُسْلِمِ .

587. Muḥammad said, “Abū Ḥanīfah informed us from al-Haytham ibn Abī’l-Haytham that the Prophet ﷺ, Abū Bakr, ʿUmar and ʿUthmān ؓ said, ‘Compensatory payment for a non-Muslim living under Muslim rule is the same as the compensatory payment for a free Muslim.’”[1642] [1643]

٥٨٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ أَخْبَرَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ أنه قَالَ : دِيَةُ الْمُعَاهِدِ دِيَةُ الْحُرِّ الْمُسْلِمِ .

588. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād informed us that Ibrāhīm said, “Compensatory payment for a non-Muslim living under Muslim rule is the same as the compensatory payment for a free Muslim.”’”



٥٨٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ أَبِي الْعَطُوفِ عَنِ الزُّهْرِيِّ عَنْ أَبِي بَكْرٍ ،
وَعُمَرَ ، وَعُثْمَانَ رَضِيَ اللهُ عَنْهُم أَنَّهُمْ جَعَلُوا دِيَةَ النَّصْرَانِيِّ وَدِيَةَ الْيَهُودِيِّ مِثْلَ دِيَةِ الْحُرِّ
الْمُسْلِمِ .

589. Muḥammad said, “Abū Ḥanīfah informed us from Abū’l-ʿAṭūf from az-Zuhrī that Abū Bakr, ʿUmar and ʿUthmān regarded compensatory payment for a Christian and compensatory payment for a Jew as the same as compensatory payment for a free Muslim.”[1644]

Muḥammad said, “We adhere to this, and it is the same with the Zoroastrian in our view, and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

590. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that a man of [the tribe of] Bakr ibn Wā’il killed a man of the people of Ḥīrah.[1645] ʿUmar ibn al-Khaṭṭāb wrote concerning it, ‘Give him over to the heirs of the deceased, and they can kill him if they wish and they may pardon him if they wish.’ So the man was given over to the heir of the deceased and [then] on to a man said to have been Khuthayn, one of the people of Ḥīrah, who killed him. After that ʿUmar wrote concerning it, ‘If the man has not already been killed, do not kill him,’ and they thought that ʿUmar had wanted to satisfy them with the compensatory payment.”[1646]

Muḥammad said, “We adhere to this. If a Muslim deliberately kills a non-Muslim living under Muslim governance then he may be killed for it, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him. Similarly, it has reached us from the Prophet[1647] ﷺ that he killed a Muslim because of a non-Muslim living under Muslim governance [whom the Muslim had killed] and said, ‘I am the truest of those who fulfil their covenants.’”

◆

[1563] *diyāt* is the plural of *diyah* a name for [*indemnification*; or] *restoration of the like*, or *of the value*, *of a thing that has perished* (Lane’s *Arabic-English Lexicon*) which is obligatory in exchange for [killing] a human being or [for damaging] a part of one.

ʿAllāmah az-Zubaydī said, “Know that the value of the compensatory payment is the value of the camels that are the original compensatory payment which the Messenger of Allah evaluated for the people of the towns because of the high value of the camel to them. The compensatory payment amounted to eight hundred gold dinars or eight thousand silver dirhams in his time, and the matter continued like that until the time of ʿUmar. At that time the camel became more valuable and the compensatory payment’s value reached one thousand gold dinars and ten thousand silver dirhams, and that is the verdict of our people.

[1564] Garments held for trade. The set of garments consists of a large cloth wrapped around the lower half of the body (*izār*) and an over garment for the whole body (*ridā*).

[1565] Abū Yūsuf narrated it on p.221.

[1566] And he said that the measures are only valid with something whose value is known not with something unknown, and the value of these things is unknown [i.e., their value fluctuates, thus, according to him, one should not pay the compensatory payment on them. – Ed.]

[1567] i.e., a complete compensatory payment [as for a fatality] and it is thus in the writing which the Messenger of Allah wrote for ʿAmr ibn Ḥazm as is narrated in an-Nasā’ī.

[1568] *asnān* is the plural of *sinn* and is a measure of age. [Each lot of camels are of different ages. – Trans.]

[1569] Quasi-deliberate intent is, for example, that someone does intend to strike but not to kill or cause injury. – Trans.

[1570] And Abū Yūsuf along with him.

[1571] Thirty camels which have entered their fifth year, thirty camels which have entered their fourth year and forty six-year old camels all of which are pregnant she-camels, and ash-Shāfiʿī adhered to this.

[1572] *ḥiqqah* is thus named because it is right (*ḥaqq*) for riding and carrying burdens, and it is the one that has begun its fourth year.

[1573] *jadhaʿah* is the camel which has entered its fifth year, recognised by a quality in its teeth that expert camel owners know.

[1574] *bāzil* camels are those that have completed eight years and begun the ninth, at which time its canine teeth emerge and its strength is made complete. After that it is called a one-year *bāzil* and a two-year *bāzil*. (*An-Nihāyah*).

[1575] In this passage the "lot" is defined as twenty-five of each age. The *bint makhāḍ*: daughter of a pregnant camel, has begun its second year and is named thus because ordinarily its mother is pregnant with another.

[1576] *bint labūn*: daughter of a suckling camel, has begun its third year and is thus named because ordinarily its mother has given birth to another and is suckling it.

[1577] Abū Yūsuf narrated it on p.219.

[1578] Similarly, middle incisors and molar teeth are the same, and all molar teeth are the same.

[1579] Abū Yūsuf narrated it on p.219.

[1580] *simḥāq* is that which penetrates to the *simḥāq*, a fine skin between the flesh and bone of the head.

[1581] *bāḍiʿah* is that wound which cuts the skin.

[1582] The *ʿādil* "just and knowledgeable person", has specific qualifications in the *fiqh*. – Trans.

[1583] *jā'ifah* is that wound which penetrates into the inside whether through the chest, belly, back or sides.

[1584] *āmmah* is that wound penetrates inside the head in which there is the brain.

[1585] *munaqqilah* or *munaqqalah* is the wound that removes bone after breaking it.

[1586] *mūḍiḥah* is the wound that exposes the bone to view.

[1587] Abū Yūsuf narrated it on p.220.

[1588] *shijāj* is the plural of *shajjah* and lexically it is used particularly for wounds to the face or head. Other wounds are called *jirāḥ*.

[1589] *mutalāḥimah* in the Magrhib is the *shajjah* wound which splits the flesh but not the bone which then heals over after being split. Al-Azharī said, "The most appropriate thing is to call the *lāḥimah* that which cuts the flesh and it is only called that according to what it leads to."

[1590] *ashfār* is the plural of *shufr* and denotes the place where the eyelashes grow and are the borders and edges of the eyes. The hairs that grow there are called eyelashes, so what is meant by *ashfār* is the eyelashes since it is the hair that grows and not the skin. Since it is obligatory to pay the entire compensatory payment for all of the *ashfār*, then for each one there is a quarter payment.

[1591] Splitting it.

[1592] i.e., it is not to be paid by his ʿ*āqilah*, the paternal relatives who would ordinarily carry the burden of compensatory payments.

[1593] Abū Yūsuf narrated it on p.222.

[1594] Since in retaliation there has to be a correspondence [between the injury and the retaliation] and that is not possible here since the blind person's eye has no light in it [cannot see].

[1595] Ibn Abī Shaybah narrated the like of it in the *Muṣannaf*, vol.5, p.44.

[1596] And if it was quasi-intentional homicide then the ʿ*āqilah* has to pay the ransom.

[1597] Unintentional acts are of two kinds: unintentional in terms of purpose in that one shoots at a person thinking him game but discovering him to be a human, or thinking him to be an enemy combatant but discovering him to be a Muslim, or unintentional in terms of the act, such as shooting at a target and striking a human being. That necessarily requires expiation, and the ransom is due from the ʿ*āqilah* but there has been no wrong action done.

[1598] Made from metal.

[1599] *akhmās* pl. of *khims*: a kind of *burdah* cloak, or alternatively a pl. of *khumus*: a fifth.

[1600] Because of His words, exalted is He, "... *retaliation is prescribed for you in the case of people killed*," (Sūrat al-Baqarah: 177) and he is guilty of a wrong action because of His words, exalted is He, "*As for anyone who kills a mu'min deliberately, his repayment is Hell*," (Sūrat an-Nisā': 92)

[1601] Unless he makes some agreement with the guardians.

[1602] Since it is their right [to retaliate, accept compensation or pardon him].

[1603] With something not appropriate for killing someone such as a quern-stone (millstone) and the like.

[1604] Such as if one strikes someone with a large stone or a large piece of stone, then that is intentional according to the two of them. Quasi-intentional according to the two of them is that one deliberately strike someone with something which would not ordinarily kill someone such as a small staff, as long as one does not strike again and again.

[1605] It entered his innards, its head protruding on the other side.

[1606] The ʿ*āqilah* are those who pay the compensatory payment – [and this term is used] because ʿ*aql* means compensatory payment – and they are the people of the register (*dīwān*), if the killer is from the people of the *dīwān*. Whoever is not from the people of the register, then his ʿ*āqilah* are his tribe. When ʿUmar recorded the registers (*dīwān*) he made the people of the register responsible for compensatory payments. The *dīwān* is the register in which is recorded the people who receive stipends, and the army. Ash-Shāfiʿī said that one's *ʿāqilah* is one's tribe.

[1607] The *dīwān* register was initiated by Sayyidunā ʿUmar ibn al-Khaṭṭāb and in it was recorded those who received stipends and the members of the army. It is they who pay the compensatory payment if the person who committed the act of violence is also one of the people of the register. Otherwise, if he is not one of the people of the register, his tribe pay the compensatory payment. – Trans.

[1608] *aʿṭiyyah* is the plural of *ʿaṭā'* which is a name for something given.

[1609] This hadith is narrated from Ibn ʿAbbās attributed [as a *marfūʿ*] to the Prophet , and also as a statement of his own without attribution to the Prophet (*mawqūf*).

[1610] i.e., the compensatory payment for a wound which lays bare the bone, and its compensation is one twentieth of the complete compensatory payment.

[1611] Similarly, if a father deliberately kills his son, then the compensatory payment comes out of his own wealth.

[1612] The *ʿāqilah* do not pay compensation for what has become necessary because of a negotiation nor that which derives from the confession of the guilty person unless the confession contains the requirement that the compensation be paid over three years. In negotiated payment for deliberate homicide the payment is due immediately unless it is made a condition of negotiations that it be paid after a period of time in which case it has to be done so.

[1613] Abū Yūsuf narrated it on p.221.

[1614] Since what is established by the testimony of witnesses is the same as that which is established by direct witnessing.

[1615] Since death because of a blow is only recognised if the wounded man took to his bed until he died.

[1616] *afīdu* is in the first person singular and derives from *fidyah*: ransom or compensatory payment.

[1617] But if it was deliberate and they testified that he struck him with an implement which wounded him, then there is retaliation for that.

[1618] However, in *al-Hidāyah* there is, "For every tooth five camels are due, i.e., a twentieth of the full compensatory payment [for killing someone], because of the hadith of Abū Mūsā al-Ashʿarī ."

[1619] *ʿajmā'* is the masculine of *aʿjam* and refers to every living creature other than the human being whichever is not articulate, and what is meant here is the dumb beast.

[1620] *maʿdin*: a mine, a place from which are brought out precious and semi-precious stones and minerals such as gold, silver and copper etc. It derives from *ʿadana* to dwell or reside in a place.

[1621] *rikāz*: that which Allah, exalted is He, has buried in mines, i.e., originated. Mālik, ash-Shāfiʿī and others took it to mean wealth buried in the earth and they said that as for minerals which Allah has created in the earth there is no fifth taken from them, but there is *zakāh* when it reaches the measure of the minimum amount of wealth (*niṣāb*) from which *zakāh* is taken. As for our people, they said that *rikāz* includes minerals from mines as well as buried treasure on all of which a fifth has to be paid, which is supported by the hadith of Abū Hurayrah image which he ascribed to the Prophet image [as a *marfūʿ*], “From precious minerals a fifth is due.” Someone asked, “What are precious minerals, Messenger of Allah?” He said. “What Allah created in the earth on the day it was created.” Al-Bayhaqī mentioned it.

[1622] Al-Bukhārī narrated it as a connected *marfūʿ* hadith from Abū Hurayrah under “date-crop sharing (*musāqāh*)” in the chapter on “someone who digs a well on his own property does not stand surety,” and Muslim under “*ḥadd* punishments” in the chapter on “wounds caused by dumb beasts, mines and wells go uncompensated.”

[1623] *hadar* means void.

[1624] Struck him with the edge of its hoof.

[1625] Employer here only in the sense that he has made a specific contract with the man who does the work for a specific task, and not in the modern sense of an employer who hires a person paying him according to the hours, days, weeks and months worked. –Trans.

[1626] Al-Bayhaqī narrated from Muʿādh ibn Jabal image who said, “The Messenger of Allah image said, ‘The compensatory payment of a woman is a half that of a man.”

[1627] See similar traditions in the *Muṣannaf* of Ibn Abī Shaybah, vol.5, pp.411-2.

[1628] And ash-Shāfiʿī image adhered to this verdict.

[1629] Meaning that if the compensation amounts to a third of a full compensatory payment or less than that [third] then men and women are the same in that respect. If it is more than a third, women take a half of what men take.

[1630] It is full because of the loss of the benefit of suckling and the withholding of the milk.

[1631] Abū Yūsuf narrated it on p.220.

[1632] Meaning that for a wound that lays bare a slave’s bone a twentieth of his price is due because for a free man a twentieth of his full compensatory payment is due. The basic principle is that the proportion of the full compensatory payment of the free man is the same as the proportion of the price of the slave because the slave’s price is the equivalent of the free man’s compensatory payment.

[1633] In a narration of Abū Yūsuf, “And his injuries,” meaning the slave’s injuries, “are proportional to his price according to the proportionality of the free man’s injuries to his compensatory payment.” In another narration there is, “Everything for which the free man has compensatory payment, the slave has his price. Everything for which the free man gets a half of his compensatory payment, the slave has a half of his price.”

[1634] A free man’s full compensatory payment is ten thousand dirhams. Whoever kills a slave unintentionally must pay his price which must not exceed ten thousand dirhams. If the slave’s price is ten thousand dirhams or more the settlement is ten thousand dirhams less ten. This is according to Abū Ḥanīfah and Muḥammad, but according to Abū Yūsuf and ash-Shāfiʿī his price must be paid whatever amount it is.

[1635] Because the value of the free man is estimated at ten thousand dirhams and we reduce it for the slave because of the lower standing that he has.

[1636] Because of the tradition of ʿAbdullāh ibn ʿAbbās and Ibn Masʿūd, which is, “The price of the slave may not amount to the full compensatory payment of a free man, and one reduces it by ten dirhams.”

[1637] For example, if someone damages a slave’s eyes, then if the master wishes he may give the slave over to the guilty party and take his price from him, or he may retain him in which case he is owed nothing for the loss in value according to Abū Ḥanīfah. And the two of them said that if he wishes he may retain his slave and take a sum according to as much as the slave’s value has decreased, or if he wishes he may give the slave over and take his value.

[1638] For example, if before the injury the slave’s value was a thousand dirhams and afterwards it remained at five hundred, then the owner takes five hundred from the man who injured the slave because of his having reduced the value.

[1639] The crimes of a slave who is to be set free after his owner’s death (*mudabbar*) and *umm walads* are the responsibility of their owner from his own wealth and not the ʿ*āqilah* because of that which is narrated from Abū ʿUbaydah ibn al-Jarrāḥ, that when he was the *amir* of Shām he gave the judgement that the crime of a *mudabbar* was the responsibility of his master.

[1640] Abū Yūsuf narrated it on p.223.

[1641] It is contracted to take effect after the master’s death and is thus as if already having taken place. – Trans.

[1642] Their men [of the People of the Book] are the same as Muslim men, and their women [of the People of the Book] are the same as Muslim women in respect of homicide and anything less than that (ʿ*Ināyah*). Ash-Shāfiʿī said that the compensation for a Jew or Christian is four thousand dirhams and the compensation for a Zoroastrian is eight hundred dirhams. Mālik said the compensation for a Jew or Christian is six thousand dirhams. We have his saying, “The compensation for every one of them with a covenant in his covenant is one thousand dinars.” Abū Dāwūd narrated it in his *Marāsīl*.

[1643] ʿAbd ar-Razzāq narrated the like of it in the *Muṣannaf*, vol.1, p.95.

[1644] ʿAbd ar-Razzāq narrated the like of it in the *Muṣannaf*, vol.10, pp.95-96.

[1645] A city three miles from Kufa whose inhabitants were Christians.

[1646] ʿAbd ar-Razzāq narrated the like of it in the *Muṣannaf*, vol.10, p.101 in an abridged form.

[1647] Ad-Dāraquṭnī narrated it in his *Sunan* from Ibn ʿUmar . Ash-Shāfiʿī said that a *mu'min* may not be killed for a *kāfir* because of that which Abū Dāwūd narrated with this wording. Our people answered that a *mu'min* may not be killed for a *kāfir* except for one who has a covenant.

ḤADD PUNISHMENTS

بَابُ ارْتِدَادِ الْمَرْأَةِ عَنِ الإِسْلامِ

186. A WOMAN WHO RENEGES ON ISLAM

٥٩١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ عَاصِمِ بْنِ أَبِي النَّجُودِ عَنْ أَبِي رَزِينٍ عَنِ ابْنِ عَبَّاسٍ رَضِيَ اللهُ عَنْهُمَا قَالَ : لا يُقْتَلُ النِّسَاءُ إِذَا ارْتَدَدْنَ عَنِ الإِسْلامِ ، وَيُجْبَرْنَ عَلَيْهِ .

591. Muḥammad said, “Abū Ḥanīfah informed us from ʿĀṣim ibn Abī’n-Najūd from Abū Razīn from Ibn ʿAbbās ﵄ who said, ‘Women are not to be killed when they renege on Islam but they are compelled to return to it.’”[1648]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَلَكِنَّا نَحْبِسُهَا فِي السِّجْنِ حَتَّى تَمُوتَ أَوْ تَتُوبَ إِلاَّ الأَمَةَ فَإِنْ كَانَ أَهْلُهَا مُحْتَاجِينَ إِلَى خِدْمَتِهَا أَجْبَرْنَاهَا عَلَى الإِسْلامِ ، فَإِنْ أَبَتْ دَفَعْنَاهَا إِلَى مَوَالِيهَا ، فَاسْتَخْدَمُوهَا وَأَجْبَرُوهَا عَلَى الإِسْلامِ ، فَإِنْ قَتَلَ الْمُرْتَدَّةَ قَاتِلٌ وَهِيَ حُرَّةٌ أَوْ أَمَةٌ فَلا شَيْءَ عَلَيْهِ من دِيَةٍ وَلا قِيمَةٍ ، وَلَكِنَّا نَكْرَهُ ذَلِكَ لَهُ ، فَإِنْ رَأَى الإِمَامُ أَنْ يُؤَدِّبَهُ أَدَّبَهُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. However, we detain her in prison[1649] until she turns in *tawbah* or dies, except for a slave woman whose owners are sorely in need of her services whom we compel to return to Islam, and who, if she refuses, we give her over to her owners who put her to work and compel her to return to Islam. If someone should kill a woman who reneges and she is a free woman or a slave woman, then he is responsible for nothing in terms of [the free woman’s] compensatory payment or her [the slave woman’s] price, but we deplore that act of his, and if the ruler wishes to have him disciplined he may do so. And it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٥٩٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّه قَالَ : تُقْتَلُ الْمَرْأَةُ إِذَا ارْتَدَّتْ عَنِ الإِسْلَامِ

592. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘A woman who reneges from Islam is to be killed.’”[1650] [1651]

قَالَ مُحَمَّدٌ : وَلَسْنَا نَأْخُذُ بِهذَا .

Muḥammad said, “We do not adhere to this.”

◆

بَابُ مَنْ قَتَلَ فَعَفَا بَعْضُ الأَوْلِيَاءِ

187. SOMEONE WHO KILLS AND THEN ONE OF THE HEIRS PARDONS HIM

٥٩٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ : أَنَّ عُمَرَ بْنَ الْخَطَّابِ رَضِيَ الله عَنه أُتِيَ بِرَجُلٍ قَدْ قَتَلَ عَمدًا ، فَأَمَرَ بِقَتْلِه ، فَعفَا بَعضُ الأَوْلِيَاء ، فَأَمَرَ بِقَتْلِه ، فَقَالَ عَبْدُ اللَّهِ بْنُ مَسْعُودٍ رَضِيَ الله عَنْهُ : كَانَت النَّفْسُ لَهُمْ جَمِيعًا ، فَلَمَّا عَفى هَذَا أَحيَا النَّفسَ ، فَلا يَسْتَطِيعُ أَنْ يَأْخُذَ حَقَّه – يَعْنِي الَّذِي لَمْ يَعْفُ – حَتَّى يَأخُذ حَقّ غَيْرِه، قَالَ فَمَا تَرى ؟ قَالَ: أَرَى أَنْ تُجْعَلَ الدِّيَةُ عَلَيْهِ فِي مَالِه ، وَيُرْفَعَ عَنْه حِصَّةُ الَّذِي عَفَا ، قَالَ عُمَرُ رَضِيَ الله عَنْه : وَأَنَا أَرَى ذَلِك .

593. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿUmar ibn al-Khaṭṭāb ؓ was brought a man who had deliberately killed someone and he gave the command that he should be killed. One of the heirs pardoned[1652] but he gave the command that he should be killed. ʿAbdullāh ibn Masʿūd ؓ said, 'The right to take his life belonged to all of them,[1653] so when this one pardoned him he gave life to that person and so is unable to take his share [of the compensatory payment],' meaning of the one who had not pardoned, 'and thus take someone else's share'.[1654] He said, 'What do you think?' He said, 'I think that he [the killer] should be made responsible for the compensatory payment[1655] from out of his own wealth and that he should not have to pay[1656] the portion of the man who pardoned him.' ʿUmar ؓ said, 'And I too think that.'"[1657]

وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

"That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

٥٩٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : مَن عَفَا من ذِي سَهْمٍ فَعَفْوُهُ عَفْوٌ .

594. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, 'Whoever of those who possess a share [in the inheritance]

pardons, then his pardon is pardon.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَمَنْ عَفَا مِن زَوْجَةٍ ، أَوْ زَوْجٍ ، أَوْ أُمٍّ ، أَوْ أَخٍ ، أَوْ غَيْرِ ذَلِكَ فَعَفْوُهُ جَائِزٌ ، وَقَدْ حُقِنَ الدَّمُ ، وَلِلْبَقِيَّةِ حِصَّتُهُمْ من الدِّيَةِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. Whoever pardons, whether his [the deceased’s] wife, mother, brother or anyone else, then that pardon is valid, and [the killer’s] life is spared, and the remainder have their share of the compensatory payment. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ مَنْ قَتَلَ عَبْدَه أَوْ ذَا قَرَابَتِه

188. SOMEONE WHO KILLS HIS SLAVE OR A MEMBER OF HIS CLOSE FAMILY

٥٩٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا عَبْدُ الْكَرِيم عَنْ رَجُل عَنْ عُمَرَ بْنَ الْخَطَّاب رَضِيَ الله عَنْه : أَنَّ أَعْرَابِيّاً قَالَ لِأُمِّ وَلَدِهِ : انْطَلِقِي فَارْعِي هَذَا الْبَهْمَ فَقَالَ ابْنُهَا : إِذاً أَذْهَبُ، فَاحْبِسْهَا ، فَإنِّي أَخْشَى أَنْ يُطِيفَ بِهَا عَبْدَانُ النَّاسِ . قَالَ: إِنَّكَ لَهُنَا ؟ ثُمَّ حَذَفَه بِسَيْفٍ يَقْتُلُه ، فَقَطَعَ رِجْلَه ، فَرُفِعَ ذَلك إِلَى عُمَرَ بْنِ الْخَطَّابِ رَضِيَ الله عَنْه، فَأَمَرَ بِقَتْلِه، فَقَالَ مُعَاذُ بْنُ جَبَلٍ رَضِيَ الله عَنْه: إِنَّه لَيْسَ بَيْنَ الأَبِ وَبَيْنَ الإِبْنِ قِصَاصٌ ، وَلَكِنَّ الدِّيَةَ فِي مَالِه .

595. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘’ʿAbd al-Karīm narrated to us from a man from ʿUmar ibn al-Khaṭṭāb ؓ that a desert Arab said to his *umm walad*, “Go and shepherd these lambs,”[1658] and so her son said, “Then I will go, so keep her back, because I am afraid that ignoble baseborn[1659] people will alight with her as guests.” He said, “You have

reached to this!”[1660] and then he struck at him with his sword to kill him and cut off his leg [and he died]. This was raised to ʿUmar ibn al-Khaṭṭāb رضي الله عنه and he ordered that he be killed, but Muʿādh ibn Jabal رضي الله عنه said, “There is no retaliation between son and father, but compensatory payment from out of his own wealth.”’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، من قَتَلَ ابْنَه عَمَدًا لَمْ يُقْتَلْ بِه ، وَلَكِنَّ الدِّيَةَ عَلَيْهِ فِي مَالِه فِي ثَلاثِ سِنِينَ ، يُؤَدِّي فِي كُلِّ سَنَةٍ الثُّلُثَ من الدِّيَةِ ، وَلَا يَرِثُ من الدِّيَةِ ، وَلَا من مَالِ ابْنِه شَيْئًا وَيَرِثُه أَقْرَبُ النَّاسِ من الإِبْنِ بَعْدَ الأَبِ ، وَلَا يَحْجُبُ الأَبُ عَنِ الْمِيرَاثِ أَحَدًا ، وَهُوَ فِي ذَلِكَ بِمَنْزِلَةِ الْمَيِّتِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. Someone who deliberately kills his own son is not to be killed for it,[1661] but he is bound to pay compensatory payment from out of his own wealth over three years, paying each year a third of the compensatory payment. He may not inherit any of the compensatory payment or any of his son’s wealth, but the relatives closest to the son after the father inherit. The father does not preclude anyone else from inheriting[1662] and in this it is as if he were dead. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٥٩٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يَقْتُلُ عَبْدَه عَمَدًا قَالَ : يُدْفَعُ إِلَى أَوْلِيَائِه ، فَإِنْ شَاءُوا قَتَلُوا وَإِنْ شَاءُوا عَفَوْا .

596. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who deliberately killed his slave, ‘He is given over to his heirs who kill him if they wish or pardon him if they wish.’”

قَالَ مُحَمَّدٌ : وَلَسْنَا نَأْخُذُ بِهَذَا ، لَيْسَ بَيْنَ الْعَبْدِ وَبَيْنَ سَيِّدِه قِصَاصٌ ، وَلَكِنَّ السَّيِّدَ يُوجَعُ ضَرْبًا ، وَيُسْتَوْدَعُ السِّجْنَ . وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We do not adhere to this; there is no retaliation between a slave and his master, but the master is beaten painfully and placed in prison, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

بَابُ من وُجِدَ فِي دَارِه قَتِيلٌ

189. SOMEONE WHO IS FOUND KILLED IN HIS HOUSE

٥٩٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يَطْرُقُ الرَّجُلَ فِي دَارِه فَيُصْبِحُ مَيِّتًا ، فَيَدَّعِي صَاحِبُ الدَّارِ أَنَّهُ قَاتَلَه ، وَأَنَّه كَابَرَه فَلِذَلِكَ قَتَلَه ، قَالَ : يُنْظَرُ فِي الْمَقْتُولِ ، فَإِنْ كَانَ دَاعِرًا يُتَّهَمُ بِالسَّرَقَةِ بَطَلَ دَمُه ، وَكَانَتْ عَلَيْهِ الدِّيَةُ ، وَإِنْ كَانَ لا يُتَّهَمُ فِي شَيْءٍ من ذَلِكَ ، وَلَا يُعْلَمُ مِنْهُ إِلَّا خَيْرًا قُتِلَ بِه . وَإِنْ ادَّعى صَاحِبُ الدَّارِ أَنَّهُ وَجَدَه عَلَى بَطْنِ امْرَأَتِه فَلِذَلِكَ قَتَلَه ، قَالَ : يُنْظَرُ ، فَإِنْ كَانَ دَاعِرًا يُتَّهَمُ بِالزِّنَا بَطَلَ الْقِصَاصُ . وَكَانَتْ عَلَيْهِ الدِّيَةُ ، وَإِنْ كَانَ لا يُتَّهَمُ فِي شَيْءٍ من ذَلك وَلَا يُعْلَمُ فِيهِ إِلَّا خَيْرًا قُتِلَ هَذَا بِه .

597. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm concerning a man who comes to another’s house by night and is found dead in the morning, and the owner of the house claims that he fought and overcame him and thus killed him. He said, ‘One looks into the circumstances of the deceased, and if he was a corrupt person[1663] suspected of theft, [retaliation] for his death is invalid, but [the owner of the house] owes compensatory payment. If [the deceased] was not suspected of anything like that and was only known for good behaviour, [his killer] is killed [in retaliation] for him.’ If the owner of the house claimed that he found him on his wife’s belly and for that reason killed him, he said, ‘One investigates and if he was a corrupt person suspected of fornication and adultery, retaliation [for his death] is invalid, but he owes compensatory

payment. If he was not suspected of anything like that and only good was known of him, this one is killed in retaliation for him.'"

قَالَ مُحَمَّدٌ : وَبِهَذَا كُلِّهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى فِي السَّرِقَةِ ، وَأَما الْفُجُورُ فَلَا أَحْفَظُ ذَلِكَ عَنْهُ .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him, with respect to the thief. As for the adulterer, I do not recall that from him."

◆

بَابُ اللِّعَانِ وَالانْتِفَاءِ مِن الْوَلَدِ

190. *LIʿĀN*[1664] AND REPUDIATION OF A CHILD

٥٩٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ فِي رَجُلٍ انْتَفَى من وَلَدِهِ، وَلاعَنَ، فَفُرِّقَ بَيْنَهُمَا ، فَقَذَفَه أَبُوهُ الَّذِي انْتَفَى مِنْهُ أَوْ قَذَفَ أُمَّه قَالَ : إِنْ قَذَفَه أَبُوه الَّذِي انْتَفَى مِنْهُ أَوْ غَيْرُه من النَّاسِ كُلُّهُمْ أَوْ قَذَفَ أُمَّه فَإِنَّهُ يُجْلَدُ . وقَالَ أَبُو حَنِيفَةَ: لا يُجْلَدُ فِي قَذْفِ الأُمِّ مَن قَذَفَهَا لأَنَّ مَعَهَا وَلَدًا لا نَسَبَ لَهُ ، وَمن قَذَفَ الْوَلَدَ فِي نَفْسِهِ خَاصَّةً، فَقَالَ له : يَازَانِ ضُرِبَ الْحَدَّ ، وَكَذَلِكَ قَالَ مُحَمَّدٌ .

598. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm spoke about a man who repudiated the parentage of his child and engaged in *liʿān* [with his wife] so that the two of them were separated, and then his father accused the child whom he repudiated of fornication or accused the mother of adultery, and he said, 'If his father accused the one whom he repudiated as his child of fornication or [his father accused] any other people or accused the mother of adultery, then he is to be flogged.' Abū Ḥanīfah said, 'Whoever accuses her of adultery is not flogged[1665] for accusing the mother of it, because she has a child with no parentage. Whoever accuses the child himself in particular and says to him,

“Fornicator!” is flogged for transgression of the *ḥadd* limits,’ and so says Muḥammad.”.

٥٩٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا قَذَفَ الرَّجُلُ امْرَأَتَه وَقَدْ جَلَدَتْه حَدّاً ، أَوْ قَذَفَهَا وَقَدْ جُلِدَتْ حَدّاً فَلَا لِعَانَ بَيْنَهُمَا ، وَلَا حَدَّ عَلَيْهِ ، وَقَالَ : من لا شَهَادَةَ لَه فَلَا لِعَانَ لَه .

599. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man accused his wife of adultery and [previously] he had been punished,[1666] I would flog him[1667] for transgressing the *ḥadd* limits [by slandering her], or if he accused her of adultery and [previously] she had been flogged, there is to be no *liʿān* between them nor is there to be any punishment for him,’ and he said, ‘Whoever has no testimony[1668] has no right to *liʿān*.’”

“This is the verdict of Abū Ḥanīfah and Muḥammad, may Allah have mercy on them both.”

600. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm who said, “If a man accused his wife of adultery and she died before he was able to engage in the process of *liʿān* with her, he inherits from her and there is no punishment [for his accusing her without sufficient witnesses] and there is no *liʿān*. It is similar if a man accused someone other than his wife[1669] of sexual impropriety [and that person died], there is to be no punishment inflicted on him since the one he accused might well have confirmed his accusation. If her husband accused her and then died, she inherits from him because he had not engaged in *liʿān* with her.”’”

“This is all the verdict of Abū Ḥanīfah and Muḥammad, may Allah have mercy on them both.”

601. Muḥammad said, “Abū Ḥanīfah informed us from Mujālid ibn Saʿīd from ʿĀmir ash-Shaʿbī from ʿUmar ibn al-Khaṭṭāb who said, ‘If a man confirms that a child is his even if only for the blink of an eye then he has no right to repudiate him.’”

“This is the verdict of Abū Ḥanīfah and Muḥammad, may Allah have mercy on them both.”

602. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm from Shurayḥ who said, ‘If a man repudiated his parentage of his child and then later claimed him as his own, he may do that[1670] and the child is ascribed to him.’”

Muḥammad said, “This is the verdict of Abū Ḥanīfah and our verdict.”

603. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who confirmed that his son is his own and then later repudiated him, ‘He engages in *liʿān* with her[1671] and the child is ascribed to his mother. If he had already divorced her, he is flogged with the *ḥadd* punishment,[1672] even if the child’s mother had already died.’”[1673] [1674]

Muḥammad said, “This is the verdict of Abū Ḥanīfah and our verdict except in one respect: if he confirms his son and then later repudiates him while she is his wife, he engages in *liʿān* with her and the child is attached to his father. If he affirms him one time, he has no right to repudiate him, as ʿUmar said.”

◆

191. SOMEONE WHO ACCUSES A WHOLE PEOPLE OF SEXUAL IMPROPRIETY, AND THE *ḤADD* PUNISHMENT FOR A FREE MAN AND A SLAVE

604. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If you fabricate something against a people and you say, “Adulterers!” you only have a single punishment.’”[1675] [1676]

Muḥammad said, “This is the verdict of Abū Ḥanīfah and our verdict.”

605. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm concerning a man who accused a man of sexual impropriety and then accused another, that he said, ‘If he were to accuse the people of the Jumuʿah, accusing all of them, he would still only have a single punishment.’”

Muḥammad said, “And this is all the verdict of Abū Ḥanīfah and our verdict. He only has a single punishment until the punishment is completed. If he accuses another person after the completion of the punishment he is flogged from the beginning again except that he is held in custody until he has recovered from the first and then flogged for the other.” He said, “The punishment is spread over his limbs if he is being flogged.”

Muḥammad said, “This is the verdict of Abū Ḥanīfah and our verdict concerning all *ḥadd* punishments [that require flogging] except that we do not strike the head, the face or the private parts. As for in discretionary punishments (*taʿzīr*)[1677] it is not spread over the limbs as it is in *ḥadd* punishments, but he is flogged in one place which is the severest flogging.[1678] He is not to be stripped for *ḥadd* punishments, nor for discretionary punishments nor for anything else.”

606. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘The fornicator is flogged severely with his clothes off. The one who has slanderously accused someone of adultery is flogged with his clothes on. The person who drinks alcohol is flogged in the same way as the slanderer and their flogging is to be less severe than that of the fornicator.’”[1679]

Muḥammad said, “All of this is the verdict of Abū Ḥanīfah except in one respect, for he would have the drinker of alcohol stripped as he would have the fornicator stripped.”

607. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a slave or slave woman makes an accusation of adultery against a free person, then their punishment is a half of the punishment for a free person: forty each.’”[1680]

Muḥammad said, “This is the verdict of Abū Ḥanīfah and our verdict.”

608. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm concerning a slave woman of whom a third[1681] or two thirds is free and who is then set to work to pay the remainder[1682] [and thus become completely free], and later a man accuses her of sexual impropriety. He said, ‘He is not liable for any [punishment] as long as she is working.’”

Muḥammad said, “This is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him. He did not think that the person who accused her was liable for anything because in his view she has the position of a slave woman[1683] as long as she is working. As for our verdict she is a freewoman; whenever a part of her is set free, then all of her is set free and the one who accuses her of sexual impropriety must be punished, and Allah knows best.”

◆

192. DISCRETIONARY PUNISHMENTS (*TAʿZĪR*)

609. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Al-Haytham ibn Abī’l-Haytham narrated to us from ʿĀmir ash-Shaʿbī who said, “Discretionary punishments must not amount to forty[1684] lashes.”’”[1685]

Muḥammad said, “This is the verdict of Abū Ḥanīfah and our verdict.”

610. Muḥammad said, “Misʿar ibn Kidām informed us saying, ‘Al-Walīd ibn ʿUthmān informed me from aḍ-Ḍaḥḥāk ibn Mazāḥim who said, “The Messenger of Allah said, ‘Whoever reaches the [amount of the] *ḥadd* punishment for something other than a *ḥadd* is one of the transgressors.’”’”

Muḥammad said, “The least *ḥadd* punishment is forty lashes, so discretionary punishments must not amount to forty lashes.”

◆

193. PUNISHMENTS FOR CONTRAVENTION OF THE LIMITS WHICH WHEN GATHERED TOGETHER INCLUDE AMONG THEM CAPITAL PUNISHMENT

611. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a number of punishments are collected together against one man among which there is execution, the punishments are averted and he is killed.[1686] If punishments are collected together[1687] and he had killed someone, then he is killed and everything other than that is averted because the execution encompassed all of that.’”

Muḥammad said, “This is all the verdict of Abū Ḥanīfah and our verdict except for in the case of the punishment with respect to accusations of adultery and fornication because they are people’s rights. In that case he is flogged for slander and then he is killed. What are averted are only punishments [executed] for the sake of Allah, exalted is He.”

◆

194. RAPE OF WOMEN

612. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that whoever rapes a woman, whether he is free or a slave, is due the *ḥadd* punishment[1688] and she is not owed a dowry. He said, ‘If the dowry is due, then punishment is averted, and if he is flogged, the dowry is invalid.’”

Muḥammad said, “All of this is the verdict of Abū Ḥanīfah and our verdict.”

◆

195. WITNESSES WHO TESTIFY TO A WOMAN’S ADULTERY, ONE OF WHOM IS HER HUSBAND

613. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If four people testify to [a woman’s] adultery one of whom is her husband,[1689] the punishment is carried out against her. If they testify and one of them is her husband, and if her husband had consummated the marriage with her, she is stoned. Their testimony is accepted if they fulfil the criteria of being reliable witnesses (*ʿudūl*).’”[1690]

Muḥammad said, “This is the verdict of Abū Ḥanīfah and our verdict. If her husband had consummated the marriage with her, she is stoned. If he had not consummated the marriage with her, she is to be flogged with a hundred lashes.”

◈

196. A VIRGIN MAN WHO FORNICATES WITH A VIRGIN WOMAN

614. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm from Ibn Masʿūd رضي الله عنه who said concerning a virgin man who fornicated with a virgin woman, ‘They are both flogged and exiled for a year[1691]’ ʿAlī ibn Abī Ṭālib رضي الله عنه said, ‘Exiling them is an ordeal.’”[1692] [1693]

615. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Exile is sufficient ordeal.’”

Muḥammad said, “So I asked Abū Ḥanīfah, ‘What did Ibrāhīm mean by saying, “Exile is sufficient ordeal”? That he should not be exiled?’ He said, ‘Yes.’”

Muḥammad said, “And this is the verdict of Abū Ḥanīfah and our verdict. We adhere to the verdict of ʿAlī ibn Abī Ṭālib.”

◆

197. THE PUNISHMENT FOR THE SODOMITE[1694]

616. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm who said, “The sodomite has the same status as the adulterer.”’”[1695] [1696]

Muḥammad said, “This is our verdict. If he is or has been married,[1697] he is stoned. If he is not or has not been married, he is flogged one hundred times as a *ḥadd* punishment.”

617. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād who said, ‘Whoever slanders someone with an unsubstantiated accusation of sodomy is flogged as a *ḥadd* punishment.’”[1698]

Muḥammad said, “That is our verdict[1699] if he is explicit and is not alluding. As for if he says [to another man], ‘O Lūṭī!’then this[1700] may have another origin[1701] which is not an unsubstantiated accusation of sexual impropriety,[1702] and so we do not give him a *ḥadd* punishment unless he is explicit.”

◆

198. THE PUNISHMENT FOR A SLAVE WOMAN WHO FORNICATES OR COMMITS ADULTERY

618. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that Maʿqil ibn Muqarrin al-Muzanī went to ʿAbdullāh ibn Masʿūd ﵁ with a slave woman of his who had fornicated and he said, ‘Flog her fifty times.’[1703] So he said, ‘She has not been married.’[1704] ʿAbdullāh said, ‘Her being a Muslim is [equivalent] to her marriage (*iḥṣān*).’ He said, ‘A slave of mine stole from another slave of mine.’ He said, ‘There is no amputation [of his hand] due against him. [Both slaves and the stolen item are] your property; some of it is in the hands of others.’ He said, ‘I have sworn never to sleep on a bed’ meaning as an act of worship. Ibn Masʿūd ﵁ said, ‘*You who have īmān! do not make ḥarām the good things Allah has made ḥalāl for you, and do not overstep the limits. Allah does not love people who overstep the limits*.’ (Sūrat al-Mā’idah: 87) The man said, ‘If it had not been for this *āyah* I would not have asked you.’ He ordered him to expiate [the breaking of the oath] by freeing a slave – the man was prosperous – and to sleep in his bed.”[1705]

Muḥammad said, “This is all the verdict of Abū Ḥanīfah and our verdict except in one respect: only the ruler executes *ḥadd* punishments. So if a slave woman or man fornicates it is the ruler who executes the punishment and not the owner.”

◆

199. SOMEONE WHO HAS SEXUAL INTERCOURSE BECAUSE OF A MISTAKEN UNDERSTANDING

619. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿAlqamah was asked about someone’s wife’s slave girl[1706] and he said, ‘I do not care if you have intercourse with her or with the slave girl

of ʿAwsajah.’”[1707] He said, “ʿAwsajah was the superintendent[1708] of his area.”[1709] [1710]

image

Muḥammad said, “This is the verdict of Abū Ḥanīfah and our verdict: someone’s wife’s slave girl and all others are the same [they are equally forbidden], except that if he had intercourse with her because of a misunderstanding [of her legal position] we would avert from him the *ḥadd* punishment. Thus it has reached us from ʿAlī ibn Abī Ṭālib and Ibn Masʿūd image.”

image

620. Muḥammad said, “Sufyān ath-Thawrī informed us from al-Mughīrah aḍ-Ḍabbī from al-Haytham ibn Badr from Ḥurqūṣ[1711] from ʿAlī ibn Abī Ṭālib ﵁ that a woman came to ʿAlī ﵁ and said, ‘My husband had sexual intercourse with my slave woman,’ and he [her husband] said, ‘She[1712] has told the truth. She and her property are mine.’ He [ʿAlī] said, ‘Go away, and do not do it again.’”[1713]

image

Muḥammad said, “The punishment is averted from him since it is an ambiguity.”

◆

image

200. AVERTING *ḤADD* PUNISHMENTS

image

621. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿUmar ibn al-Khaṭṭāb ﵁ said, ‘Avert *ḥadd* punishments from Muslims as much as you are able, since for a ruler to pardon mistakenly is better than for him to punish mistakenly. So if you find some way out for a Muslim, avert [the *ḥadd* punishment] from him.’”[1714]

image

Muḥammad said, “This is the verdict of Abū Ḥanīfah and our verdict.”

image

622. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm who said, ‘If a man says about his wife whom he had married, “I did not find her a virgin,” there is no *ḥadd* punishment due upon him.’”

image

Muḥammad said, “And this is the verdict of Abū Ḥanīfah image and it is our verdict.”

image

623. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘ If a man says to another, “So-and-so was not your mother,” then that is nothing.’”[1715]

image

Muḥammad said, “This is the verdict of Abū Ḥanīfah and our verdict, since he had not repudiated his attribution to his father, but only said that his mother did not give birth to him. The repudiation of lineage for which there is a punishment is the statement, ‘Your father is not your real father.’”

image

624. Muḥammad said, “Abū Ḥanīfah informed us al-Haytham ibn Abī’l-Haytham from a man who narrated to him that ʿUmar ibn al-Khaṭṭāb ؓ was brought a man who had sexual intercourse with an animal, but he averted the punishment from him and ordered that the beast be burnt.”[1716]

image

625. Muḥammad said, “Abū Ḥanīfah informed us from ʿĀṣim ibn Abī’n-Najūd from Abū Razīn from Ibn ʿAbbās ؓ who said, ‘Whoever has sexual intercourse with an animal is not due a *ḥadd* punishment.’”[1717]

image

Muḥammad said, “This is the verdict of Abū Ḥanīfah and our verdict.” Abū Ḥanīfah and Muḥammad said, “If it was his own animal it is to be slaughtered[1718] and then burnt, but it is not to be burnt without being slaughtered because that would be an exemplary punishment.”[1719]

201. THE PUNISHMENT FOR SOMEONE WHO IS INTOXICATED[1720]

626. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘ʿAbd al-Karīm ibn Abī’l-Mukhāriq narrated to us ascribing the hadith to the Prophet that he was brought someone who was intoxicated and told them to beat him with their sandals – and they were at that time forty men – and so each one of them struck him with their sandals. When Abū Bakr took command he was brought someone who was intoxicated and he told them to beat him with their sandals. When ʿUmar took command, he sought to find the correct ruling from people, and he had [drunks] flogged with a lash.”[1721]

Muḥammad said, “We adhere to this. We think that the punishment for someone who is intoxicated, whether from *nabīdh* or something else, is eighty lashes[1722] with the whip. He is to be taken into custody until he sobers up and the intoxication leaves him and then he is to be flogged as a punishment, the flogging being spread over his limbs, and he is to be stripped. However, he must not be struck on the private parts, the face or the head. His flogging is to be more severe than that for a slanderer, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

627. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Even if a man drinks a single sip[1723] of wine he is to be flogged.’ He said, ‘I fear that an intoxicant[1724] might be the same as that.’”

Muḥammad said, “One is flogged with the *ḥadd* punishment for a sip of wine, but as for an intoxicant then one is not to be given a *ḥadd* punishment unless intoxicated but rather one is given a discretionary punishment and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

202. THE *ḤADD* PUNISHMENT FOR A HIGHWAY ROBBER OR THIEF

628. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Al-Qāsim ibn ʿAbd ar-Raḥmān narrated to us from his father from ʿAbdullāh ibn Masʿūd who said, ‘The hand of a thief is not to be cut off for less than ten dirhams.’”[1725]

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

629. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘The hand of a thief is not to be cut off for less than the price of a leather shield (*ḥajafah*[1726]),’ and its price used to be ten dirhams. And he [Ḥammād] said, ‘Ibrāhīm also said, “The hand of a thief is not to be cut off for less than the price of a shield (*mijann*),” and its price at that time was ten dirhams, “and it is not to be cut off for less than that.”’”[1727] [1728]

630. Muḥammad said, “Abū Ḥanīfah informed us from al-Haytham ibn Abī’l-Haytham from ash-Shaʿbī who ascribed it directly to the Prophet that he said, ‘The hand of a thief is not cut off for fruit (*thamar*) or the spadix (*kathar*)[1729] of a palm tree.’”[1730]

Muḥammad said, “We adhere to this. Fruit is that which is at the tops of date palms and trees, not protected in houses,[1731] so there is no cutting off of the hand of someone who steals them. The spadix is the pith,[1732] the pith of the date-palm and so there is no cutting off of the hand for stealing it, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

631. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘ʿAmr ibn Murrah narrated to us from ʿAbdullāh ibn Salamah from ʿAlī ibn Abī Ṭālib ﵁ who said, “If a man steals, his right hand is cut off. If he repeats it, his left foot is cut off. If he does it again, he is put into prison[1733] until he becomes reformed in a good way. I am ashamed before Allah to leave him without a hand with which he can eat and with which he can wash his private parts after the toilet or without a foot with which to walk.”’”

Muḥammad said, “We adhere to this. Only a thief’s right hand and left foot are to be cut off, and nothing further is to be done if the thief steals time and time again. However, he is given a discretionary punishment and imprisoned until he becomes reformed in a good way. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

632. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘The hand of a thief is cut off and he is responsible [to restore what he stole or its value].’”[1734]

Muḥammad said, “We do not adhere to this. If the hand of a thief is cut off, then his being responsible [to restore what he stole or its value] is invalidated[1735] except where the specific items are found in his possession, in which case they are returned to their owner.[1736] That is the verdict of

ʿĀmir ash-Shaʿbī and Abū Ḥanīfah, may Allah, exalted is He, have mercy on them both.”

633. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ibrāhīm ibn Muḥammad ibn al-Muntashir narrated to us from his father from Yazīd ibn Abī Kabshah who said, “Abū’d-Dardā’ was brought a black slave girl who had stolen at the time he was in charge of Damascus,[1737] and he said, ‘Salāmah, have you stolen? Say, “No.”’ So she said, ‘No.’ They said, ‘Are you instructing her, Abū’d-Dardā’?’ He said, ‘You have brought me a woman who does not know what is demanded of her, in order that she confess and then I cut off her hand.’”’”

634. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Abū Masʿūd al-Anṣārī ؓ was brought a thief and he said, “Have you stolen? Say, ‘No.’” So he said, “No,” and he set him free.’”

Muḥammad said, “As for us, we say[1738] that the judge ought not to say to him, ‘Have you stolen?’ but he should be silent until he admits it or denies it, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

Muḥammad said, “I only think that they[1739] said to these two thieves, ‘Say, “No,”’ when they asked them, ‘Have you stolen?’ for fear of them answering ‘Yes,’ when questioned, even though they had not done it.[1740] Similarly, Abū Ḥanīfah gave the verdict concerning a witness who testifies to the judge, ‘The judge ought not to say to him, ‘Do you testify such-and-such?’ for fear of him saying, ‘Yes,’ but he should leave him alone until he produces his own testimony. Then if his testimony is decisive he should execute it, but if it is not decisive he should then reject it [the case]. Thus it is with *ḥadd* punishments.”

635. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man acts as a brigand stealing property and killing, then the ruler can kill him in whatever manner he please. He may kill him by crucifixion[1741] if he wishes, and he may kill him without amputation [of limbs] and without crucifixion if he wishes, and he may cut off alternate hands and feet and then have him killed if he wishes. If he stole property and did not kill anyone his alternate hand and foot are cut off. If he did not take property and did not kill anyone then he is given a painful punishment and imprisoned until he becomes reformed in a good way.”

Muḥammad said, “This is all the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him, to which we adhere except in one respect: if he killed someone and took property then he is killed by crucifixion but his hand foot are not cut off. If two *ḥadd* punishments come together, one overrules the other, which is then averted.”

636. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a thief who stole and was then caught but got away, and then later he stole and was again caught, ‘His hand is cut off.’”

Muḥammad said, “We adhere to this. We think that he is only due to have one limb amputated, and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

637. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘A man narrated to us from al-Ḥasan al-Baṣrī that ʿAlī ibn Abī Ṭālib ﵁ said, “The hand of a person who takes something stealthily[1742] is not to be cut off.”’”[1743]

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

image

203. THE PUNISHMENT FOR GRAVEROBBERS

image

638. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm that he said about the graverobber[1744] when he rifled the [graves of the] dead and stripped them, “His hand is cut off.”’[1745] Abū Ḥanīfah said, ‘His hand is not cut off, because these belongings are not guarded, but he is beaten painfully and imprisoned until he becomes reformed in a good way.’”[1746]

image

Muḥammad said, “It has reached us that Ibn ʿAbbās gave Marwān ibn al-Ḥakam the judgement[1747] that [the graverobber] should not have his hand cut off, and that is our verdict.”

◆

[1648] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.5, p.557.

[1649] Because she has refused to fulfil the right of Allah, exalted is He, after her affirmation of it and so is compelled to fulfil it by being imprisoned as is in *Ḥuqūq al-ʿibād*.

[1650] Ash-Shāfiʿī image gave this verdict because of his saying image, “Whoever changes his *dīn*, kill him,” in which the word “whoever” encompasses men and women. We [*Ḥanafīs*] have that the Prophet image forbade women to be killed. If his saying, “Whoever changes his *dīn*...” is general (*ʿāmm*) nevertheless it has to be taken as restricted to men in particular (*khāṣṣ*) because when a general and particular ruling occur in some ruling then the particular has to qualify the general ruling. When a Muslim man reneges on Islam, whether he is free or a slave, then Islam is offered to him and if he has some misunderstanding it is clarified for him and he is detained for three days. Then if he submits in Islam that is well and good, but otherwise he is killed.

[1651] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.5, p.558.

[1652] There is in *al-Hidāyah* that if one of those who have a share [in the inheritance] pardons the killing or negotiates something about dropping his share of the compensation for some other substitute, then the right of the others to retaliation is dropped but they retain their portions of the compensatory payment.

[1653] Retaliation is the right of all of the heirs.

[1654] Since retaliation is not divisible.

[1655] If retaliation is dropped the shares of the others are transformed into property and must be paid over three years.

[1656] Since he willingly dropped his right by his own action.

[1657] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.5, p.417.

[1658] *bahm*: a kid goat, but what is meant here are lambs and kids together.

[1659] *ʿibdān* by which is meant the lowest kind of people.

[1660] “You have reached this station and you are talking like this!”

[1661] Meaning that a man is not to be killed for killing his son because of his saying , “Retaliation is not taken against a father for his child.”

[1662] The calculation of inheritance, sometimes has the presence of a family member precluding others from inheriting. In this case, the existence of the father is not counted and he precludes no one else from inheriting. – Trans.

[1663] Foul, wreaking corruption and deviant.

[1664] *liʿān* is when a husband swears four oaths accusing his wife of adultery, laying a curse upon himself if he is a liar, and she exonerates herself by swearing four oaths that he is lying and laying a curse upon herself if she is lying. – Trans.

[1665] And in *al-Hidāyah* there is, “Whoever accuses a woman of sexual impropriety and she has children whose father is not known, or accuses the woman who takes part in *liʿān* of having [an illegitimate] child and the child is alive, or accuses her after the death of the child, then he is not to be punished for transgressing the limit because the proof of her adultery is clear, i.e., the birth of a child without a known father. So her virtue and chastity are lost and they are a precondition for being regarded as chaste woman (*muḥṣan*) [and punishment is only for those who slander chaste women]. If he had accused a woman who had engaged in *liʿān* without having given birth [to an illegitimate] child then he is punished because of the lack of evidence of adultery.”

[1666] Circumstantial clause. [He had already been punished for transgressing the limits and was thus ineligible as a witness].

[1667] In the first person singular. Because the husband is not one of the people who can testify since he has been punished for his accusation and so it is impossible to carry out *liʿān* because of him. Thus it reduces it to the original cause which is the accusation of sexual impropriety.

[1668] Because of the lack of being valid witnesses and the lack of chastity (*iḥṣān*) on her part, and the impossibility of *liʿān* because of her, and so the punishment is dropped.

[1669] Man or woman, and then the person accused died, in which case there is no punishment for the person who made the accusation of sexual impropriety.

[1670] And he is punished for transgressing the limits since he had declared himself a liar by this second claim of his.

[1671] Because the ascription of relationship is required because of his confirmation of it, and by his repudiation later he becomes someone who makes an accusation of his wife's sexual impropriety and so must enter into *liʿān* with her.

[1672] Since after divorce she had become as a stranger to him, and if a man accuses a stranger of sexual impropriety and is incapable of proving his accusation he is to be flogged with the *ḥadd* punishment for slander.

[1673] And the son demands his punishment for slander since he accused a chaste Muslim woman of sexual impropriety after her death, contrary to if he had accused her and then she died in which case the punishment is dropped (*al-Hidāyah*).

[1674] Abū Yūsuf narrated it on p.153.

[1675] He said in *al-Mughnī*, "If those things that require *ḥadd* punishments such as adultery, fornication, theft, accusations of sexual impropriety, and drinking alcohol are repeated before the imposition of the *ḥadd* punishment, there is no disagreement that one *ḥadd* punishment is sufficient."

[1676] Ibn Abī Shaybah narrated the like of it in the *Muṣannaf*, vol.5, p.481.

[1677] *taʿzīr*: the ruler and the *qāḍī* may punish a person with flogging at their own discretion but it must be a lesser amount than the *ḥadd* punishments which are one hundred lashes for fornication, eighty for sexual slander and forty for drinking alcohol. – Trans.

[1678] Because the punishment is lightened from the point of view of the number and so is not lightened from the point of view of how it is done so that it does not lead to missing the purpose [of the punishment].

[1679] See the traditions about that from Ibn Abī Shaybah in the *Muṣannaf*, vol.5, p.491.

[1680] See the *Muṣannaf* of Ibn Abī Shaybah, vol.5, p.483.

[1681] Meaning, when a master sets free a part of his slave woman.

[1682] Because she has been set free to that measure and works to pay off the remainder of her price according to Abū Ḥanīfah. But the two of them (Imam Muḥammad and Imam Abū Yūsuf) said that she is to be set completely free. The origin is that according to him (Abū Ḥanīfah) the act of setting free may be divided into parts and be confined to what has been set free, but according to the two of them it may not be divided into parts which is also the verdict of ash-Shāfiʿī .

[1683] Because she is not regarded as *muḥṣan* and in this case of slander of a sexual nature the *muḥṣan* must be free, sane, have reached puberty, be a Muslim and abstain from acts of adultery.

[1684] See note 1677.

[1685] Ibn Abī Shaybah narrated the like of it in the *Muṣannaf*, vol.5, p.544.

[1686] Because there is no need of any other type of chiding and restraint along with that.

[1687] Meaning that if he had fornicated, stolen and drunk alcohol then all of their punishments would be executed on him unless among his punishments one was a capital punishment, meaning that if he had killed someone along with fornicating then it is sufficient to execute him.

[1688] If illegal sexual intercourse is established, but if that punishment is averted from him because of the existence of some ambiguity then he owes the dowry, and both *ḥadd* punishment and dowry are not incumbent for a single act of sexual intercourse.

[1689] Al-Jaṣṣāṣ said in *Aḥkām al-Qur'ān*, "There is no disagreement that the testimony of a husband against his wife is valid in respect of every other claim and in cases of retaliation and in every other *ḥadd* punishment, and so similarly it must necessarily be admissible for adultery." Mālik and ash-Shāfiʿī said that testimony of four witnesses one of whom is the husband is not complete.

[1690] See the traditions about that in the *Muṣannaf* of Ibn Abī Shaybah, vol.5, p.526.

[1691] This was ash-Shāfiʿī's verdict that they are given both of these as a *ḥadd* punishment, but according to us a virgin is not given both a flogging and exile as a *ḥadd* punishment. Exile and expulsion are not legislated as a *ḥadd* punishment but as a politic handling of the situation and as a discretionary punishment as ʿUmar said concerning the events surrounding Rabīʿah ibn Umayyah, "I will not exile another Muslim after him," which is a general statement comprising everyone who perpetrates a wrong action necessitating a *ḥadd* punishment.

[1692] For example, if they were to leave Islam in the lands of the *kuffār* which would also be an ordeal for Islam and the Muslims.

[1693] See the traditions about that in the *Muṣannaf* of Ibn Abī Shaybah, vol.5, p.536.

[1694] Unfortunately the word for sodomite here is *lūṭī*, by ascription to Lūṭ which leads to the ambivalence noted later in tradition 617. – Trans.

[1695] Ash-Shāfiʿī gave this verdict, but Abū Ḥanīfah said that he is not given a *ḥadd* punishment but a discretionary punishment. And there is in *al-Jāmiʿ aṣ-ṣaghīr* that he is to placed in prison until he turns in *tawbah* or dies. In *az-Ziyādāt* there is that it is up to whatever the imam (sultan) thinks, and he may have him killed if he wishes or have him beaten and imprisoned if he wishes.

[1696] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.5, p.493.

[1697] *muḥṣan* denotes someone who is or has been married and has consummated the marriage. – Trans.

[1698] See some of the traditions in the *Muṣannaf* of Ibn Abī Shaybah, vol.5, p.495.

[1699] And also the verdict of Abū Yūsuf, meaning that if he ascribes sodomy to him explicitly that according to the verdict of Abū Yūsuf and Muḥammad he is given the *ḥadd* punishment but contrary to the verdict of Abū Ḥanīfah.

[1700] Statement, "O Lūṭī!"

[1701] Because sodomy is ascribed to the action of the people of Lūṭ but if someone says, "O Lūṭī!" it is possible that what is meant by it is, "O companion of Lūṭ!" or something other than an unsubstantiated accusation of illicit sexual intercourse, and so there is no *ḥadd* punishment for him.

[1702] [Since *lūṭī* simply denotes an ascription to Lūṭ. – Trans.] If a man says to another man, "O Lūṭī!" there is no *ḥadd* punishment for him because it is not an explicit accusation of illicit sexual intercourse.

[1703] Allah, exalted is He, informed that if slave women have become *muḥṣan* through accepting Islam or marriage they have no more than half of the *ḥadd* punishment of free women. Since, He laid on them a half of the *ḥadd* punishment due a free woman if she is *muḥṣan*, we know that He meant flogging since stoning can't be half done.

[1704] Meaning, "Even if she has not married." Ibn ʿAbbās said that a slave does not have to be given the *ḥadd* punishment even if she has become a Muslim unless she marries. It was for this reason that Ibn Masʿūd said, "Her being a Muslim is [equivalent] to her marriage (*iḥṣān*)." The difference of opinion is based on the recitation of this word [in Sūrat an-Nisā' 26]. It is narrated of Ibn ʿAbbās that it is recited as *uḥṣinna* with a *ḍammah* (*u*) on the *alif* meaning "they are married" [the recitation of Ḥafṣ] but from Ibn Masʿūd and others that it is *aḥṣanna* with a *fatḥah* (*a*) meaning "they become Muslims." It is not impossible that both meanings are intended by this word since both interpretations are possible.

[1705] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.5, p.497 in an abridged form.

[1706] Meaning, "If a man has sexual intercourse with his wife's slave girl, what is the judgement about that?"

[1707] The name of a man. [Meaning that they are equally *ḥarām*. – Trans.]

[1708] Chief (ʿ*arīf* which I take to be the correct reading in the commentary rather than ʿ*arīḍ*) and helper on whom they rely.

[1709] Locality or tribe.

[1710] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.5, p.511.

[1711] It is said that it is also Ḥurqūs with a *sīn* rather than *ṣād*.

[1712] Meaning, “My wife...”

[1713] See the traditions about that in the *Muṣannaf* of Ibn Abī Shaybah, vol.5, p.511.

[1714] Ibn Abī Shaybah narrated the like of it in the *Muṣannaf*, vol.5, p.507.

[1715] Ibn Abī Shaybah narrated the like of it from others. See the *Muṣannaf*, vol.5, p.529.

[1716] Ibn Abī Shaybah narrated the like of it in the *Muṣannaf*, vol.5, p.508.

[1717] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.5, p.508.

[1718] That is in order to stop discussion about it and so that the man might not be upbraided about it, [which might happen] if the animal remained alive, but [sacrificing the animal and burning it] is not obligatory.

[1719] The animal is not punished, but rather slaughtered. It is burnt so that it cannot be eaten or made use of.

[1720] It is the person who raves and becomes confused in his speech, since this is the “drunk” according to common usage, and it is this definition to which most shaykhs incline.

[1721] Abū Dāwūd narrated it under “*ḥadd* punishments” in the chapter on “the *ḥadd* punishment for wine,” and the chapter on “when someone drinks wine continually.”

[1722] And this is the verdict of the dominant majority of the ʿ*ulamā’*, but some took the position that it is forty lashes. The command to lash is firmly established as that of the Prophet image, for he said, “Whoever drinks wine, lash him.” At-Tirmidhī narrated it. The number of lashes is firmly established as coming from his practice as is shown by that which ʿAbd ar-Razzāq narrated from al-Ḥasan image, “ʿUmar wanted to write in the written copy of the Qur’ān that the Messenger of Allah image lashed eighty times for [drinking] wine.”

[1723] The measure of what can be drunk at a single go.

[1724] *sakar* is everything which intoxicates but what is meant here is any type of intoxicant other than wine.

[1725] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.5, p.473.

[1726] A shield made of leather without wood.

[1727] Ash-Shāfiʿī image said that it is to be cut off for a quarter of a dinar of gold or that whose value is a quarter of a dinar. Mālik and Aḥmad said a quarter of a dinar or three dirhams. So we have taken the higher amount in this category in order to be scrupulously careful.

[1728] See other traditions in the *Muṣannaf* of Ibn Abī Shaybah, vol.5, pp.471-3.

[1729] *kathar* and *jummār* [see below] are the heart of the date-palm, and in the same sense is everything which rots quickly.

[1730] Ibn Mājah narrated it as a connected *marfūʿ* hadith from Abū Hurayrah under “*ḥadd* punishments” in the chapter on “that which is not amputated neither for fruits or the spadix of palm trees.”

[1731] Theft can only be in the case where something is set aside clearly and guarded, as within a house, or some other premises. This is one of the reasons why Muslims are careful not to leave things carelessly without protection, because then one has tempted someone to steal it and shares with them in the wrong action. – Trans.

[1732] *jummār* is “*the heart* or *pith ... of the of the palm-tree, that is in the summit of its head, which part is cut off, and its outer portion is stripped off from the pith within, which is a white substance, like a piece of the hump of a camel, large and soft: it is eaten with honey*...” (From Lane’s *Arabic-English Lexicon*). – Trans.

[1733] Ash-Shāfiʿī said image that if he steals a third and fourth time he is killed.

[1734] See the traditions in the *Muṣannaf* of Ibn Abī Shaybah, vol.5, pp.475-6.

[1735] This comprises both their destruction and their consumption and is the narration of Abū Yūsuf from al-Imam al-Aʿẓam but al-Ḥasan narrated of him that he is responsible for what he has consumed but not for what he destroyed.

[1736] Because they remain his property.

[1737] He was the governor.

[1738] The upshot is prevention of his coaxing before confession, but after the confession it is recommended just as the Prophet image coaxed Māʿiz, and [the author] stated plainly in *ad-Durr al-mukhtār* and other texts of the *madhhab* that this coaxing is recommended.

[1739] Meaning Abū’d-Dardā’ and Abū Masʿūd image.

[1740] Meaning in the case where they had not stolen.

[1741] The origin of which is His words, exalted is He, “*The reprisal against those who wage war on Allah and His Messenger, and go about the earth corrupting it, is that they should be killed or crucified, or have their alternate hands and feet cut off, or be banished from the land,*” (Sūrat al-Mā’idah: 33) by which is meant, and Allah knows best, is to distribute according to conditions which are fourfold: first, is that if they murder and take property the imam has the choice of cutting off alternate hands and feet and kills them or crucifies them. If he wishes he may kill them and if he wishes he may crucify them. Muḥammad said that he may kill them or crucify them but not cut [alternate hands and feet]. Second, if they take property but do not commit murder, alternate feet and hands are cut off. Third, if they commit murder but do not steal property they may be killed as a *ḥadd* punishment. Fourth, if they do not commit murder nor steal property and are captured before this, they are held in custody and given a discretionary punishment, which is what is meant by *nafy* (banishment).

[1742] *mukhtalis is someone who seizes, or carries off, a thing at a time of inadvertence*. (Lane's *Arabic-English Lexicon*). The point being that the judgement of theft is only with respect to things that are securely protected. (Trans). Ḥāfiẓ Riyāḍ Aḥmad al-Multānī says, "Because he is not regarded to be open in making the theft known, and *ikhtilās* is taking something from someone else by stealth."

[1743] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.5, p.523.

[1744] *nabbāsh*: the person who robs graves and takes the shroud; *nabsh*: to uncover and to draw out.

[1745] And this is the verdict of Abū Yūsuf and ash-Shāfiʿī.

[1746] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.5, p.518.

[1747] At the time of Muʿāwiyah, and there is in another narration of Ibn Abī Shaybah, "So Marwān asked those of the Companions and the *fuqahā'* who attended him and their view was unanimous that he should be beaten and paraded around."

TESTIMONY

بَابُ شَهَادَةِ أَهْلِ الذِّمَّةِ عَلَى الْمُسْلِمِينَ

204. TESTIMONY OF PEOPLE OF THE *DHIMMAH*[1748] AGAINST MUSLIMS

٦٣٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي قَوْلِهِ تَعَالَى : ﴿ شَهَادَةُ بَيْنِكُمْ إِذَا حَضَرَ أَحَدَكُمُ الْمَوْتُ حِينَ الْوَصِيَّةِ اثْنَانِ ذَوَا عَدْلٍ مِّنكُمْ أَوْ آخَرَانِ مِنْ غَيْرِكُمْ ﴾ إِلَى آخِرِهَا ، قَالَ : مَنسُوخَةٌ .

639. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm spoke concerning His words, exalted is He, ‘…*when one of you is near to death and makes a will, two just men from among you should act as witnesses; or, … two men who are strangers to you,…*’ up until the end of it (Sūrat al-Mā’idah: 106). He said, ‘It is abrogated.’”[1749]

قَالَ مُحَمَّدٌ : وَبِهَذَا نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ . وَإِنَّمَا يَعْنِي بِهَذِهِ الشَّهَادَةِ فِي السَّفَرِ عِنْدَ حَضْرَةِ الْمَوْتِ عَلَى الْوَصِيَّةِ إِذَا لَمْ يَكُنْ أَحَدٌ من الْمُسْلِمِينَ جَازَتْ شَهادَةُ أَهْلِ الذِّمَّةِ عَلَى وَصِيَّةِ الْمُسْلِمِ ، نُسِخَ ذَلِكَ ، فَلَا يَجُوزُ عَلَى وَصِيَّةِ الْمُسْلِمِ وَلَا غَيْرِ ذَلِكَ من أَمْرِهِ إِلَّا الْمُسْلِمِينَ ، وَاللَّهُ أَعْلَمُ .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah. He only means by this, testimony about a will on a journey when death occurs when there are no Muslims, in which case the testimony of the people of the *dhimmah* is valid in a Muslim’s will.

However, that is abrogated, so only Muslims are valid [witnesses] in a Muslim’s will or in anything else of their affairs, and Allah knows best.”

◆

بَابُ شَهَادَةِ الْمَحْدُودِ

205. THE TESTIMONY OF SOMEONE WHO HAS RECEIVED A *ḤADD* PUNISHMENT

٦٤٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ فِي نَصْرَانِيٍّ قَذَفَ مُسْلِمَةً، فَضُرِبَ الْحَدَّ، ثُمَّ أَسْلَمَ : أَنَّهُ جَائِزُ الشَّهَادَةِ .

640. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm concerning a Christian who accuses a Muslim woman of unsubstantiated sexual impropriety and is then flogged as a punishment, but later accepts Islam, that his testimony is valid.’”[1750] [1751]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى لِأَنَّهُ لَمْ يُضْرَبْ حَدّاً فِي الْإِسْلَامِ .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him, because he was not flogged as a punishment in Islam.”

٦٤١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا جُلِدَ الْقَاذِفُ لَمْ تَجُزْ شَهَادَتُهُ أَبَدًا ، وَقَالَ فِي قَوْلِ اللَّهِ تَعَالَى : ﴿ إِلَّا الَّذِينَ تَابُوا من بَعْدِ ذَلِكَ وَأَصْلَحُوا ﴾ قَالَ : يُرْفَعُ عَنْهُ اسْمُ الْفِسْقِ ، فَأَمَّا الشَّهَادَةُ فَلَا تَجُوزُ أَبَدًا .

641. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm who said, “If someone who slanders

others by accusing them of unsubstantiated sexual impropriety is flogged his testimony is never valid," and he spoke about the words of Allah, exalted is He, "*…except for those who after that make tawbah and put things right*," (Sūrat an-Nūr: 5) and said, "The appellation of being a deviator[1752] is lifted from him, but his testimony is never again valid."""[1753]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

٦٤٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا الْهَيْثَمُ بْنُ أَبِي الْهَيْثَمِ ، عَنْ عَامِرٍ الشَّعْبِيِّ قَالَ : أُجِيزُ شَهَادَةَ الْقَاذِفِ إِذَا تَابَ .

642. Muḥammad said, "Abū Ḥanīfah informed us saying, 'Al-Haytham ibn Abī'l-Haytham narrated to us from ʿĀmir ash-Shaʿbī who said, "I regard the testimony of someone who accuses of others of unsubstantiated sexual impropriety as being valid[1754] if he has turned in *tawbah*."'"

قَالَ مُحَمَّدٌ : وَلَسْنَا نَأْخُذُ بِهَذَا .

Muḥammad said, "We do not adhere to this."

٦٤٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا الْهَيْثَمُ عَنْ عَامِرٍ الشَّعْبِيِّ عَنْ شُرَيْحٍ قَالَ : أَتَاهُ أَقْطَعُ بَنِي أَسَدٍ فَقَالَ : أَتَقْبَلُ شَهَادَتِي ؟ وَكَانَ مِن خِيَارِهِمْ – فَقَالَ : نَعَمْ ، وَأَرَاكَ لِذَلِكَ أَهْلاً .

643. Muḥammad said, "Abū Ḥanīfah informed us saying, 'Al-Haytham narrated to us from ʿĀmir ash-Shaʿbī from Shurayḥ who said that a man from Banī Asad whose hand was amputated [for theft] had come to him and asked, "Is my testimony acceptable?" –

and he was one of their best people – and he said, "Yes, I regard you as fitting for that."'"[1755]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، كُلُّ مَحْدُودٍ فِي سَرِقَةٍ أَوْ زِنًا أَوْ غَيْرِ ذَلِكَ إِذَا تَابَ قُبِلَتْ شَهَادَتُه ، إِلَّا المَحْدُودَ فِي القَذْفِ خَاصَّةً ، لِقَوْلِ اللَّهِ تَعَالَى : ﴿وَلَا تَقْبَلُوا لَهُمْ شَهَادَةً أَبَدًا﴾ .

Muḥammad said, "We adhere to this. Every person who has had a *ḥadd* punishment whether as a thief or a fornicator or anything else, if they turn in *tawbah* their testimony is accepted, except for the person who has had the punishment for accusing others of unsubstantiated sexual impropriety in particular because of Allah's words, exalted is He, '*and never again accept them as witnesses*,' (Sūrat an-Nūr: 4)."

◆

بَابُ شَهَادَةِ الزُّورِ

206. FALSE TESTIMONY

٦٤٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا الْهَيْثَمُ بن أَبِي الْهَيْثَمِ عَمَّن حَدَّثَه عَنْ شُرَيْحٍ قَالَ : إِذَا أَخَذَ شَاهِدَ زُورٍ فَإِنْ كَانَ من أَهْلِ السُّوقِ بَعَثَ بِهِ إِلَى السُّوقِ . فَقَالَ لِرَسُولِهِ : قُلْ لَهُمْ : إِنَّ شُرَيْحًا يُقْرِئُكُمُ السَّلَامَ وَيَقُولُ إِنَّا وَجَدْنَا هَذَا شَاهِدَ زُورٍ فَاحْذَرُوهُ ، وَإِنْ كَانَ مِنَ الْعَرَبِ أُرْسِلَ بِهِ إِلَى مَسْجِدِ قَوْمِهِ أَجْمَعَ مَا كَانُوا ، فَقَالَ لِلرَّسُولِ مِثْلَ مَا قَالَ فِي الْمَرَّةِ الأُولَى .

644. Muḥammad said, "Abū Ḥanīfah informed us saying, 'Al-Haytham ibn Abī'l-Haytham narrated to us from someone who

narrated to him about Shurayḥ; he said, “When he caught a person in false testimony, if he was one of the people of the marketplace he sent someone along with him to the marketplace and said to the messenger, ‘Say to them, “Shurayḥ greets you and says, ‘We found this one out in false testimony so beware of him.’””[1756] If he was an Arab, a messenger is sent with him to his people’s mosque where the greatest number of them were gathered and the messenger was told to say something similar to what was said on the former occasion.””””[1757]

قَالَ مُحَمَّدٌ : وَبِهَذَا كَانَ يَأْخُذُ أَبُو حَنِيفَةَ رَحِمَهُ اللّٰهُ تَعَالَى ، وَلَا يَرَى عَلَيْهِ ضَرْبًا ، وَأَمَّا فِي قَوْلِنَا فَإِنَّا نَرَى عَلَيْهِ مَعَ ذَلِكَ التَّعْزِيرَ ، وَلَا يَبْلُغُ بِهِ أَرْبَعِينَ سَوْطًا .

Muḥammad said, “Abū Ḥanīfah used to adhere to this, may Allah, exalted is He, have mercy on him, and did not think that he should be flogged,[1758] but our verdict is that we think that along with that there should be a discretionary punishment which should not amount to forty lashes.”

٦٤٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ حَدَّثَنِي رَجُلٌ عَنْ عَامِرٍ الشَّعْبِيِّ : أَنَّهُ كَانَ يَضْرِبُ شَاهِدَ الزُّورِ مَا بَيْنَهُ وَبَيْنَ أَرْبَعِينَ سَوْطًا .

645. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘A man narrated to me from ʿĀmir ash-Shaʿbī that he used to flog a person who bore false testimony with up to but not as many as forty lashes.’”[1759]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ .

Muḥammad said, “We adhere to this.”

◆

بَابُ شَهَادَةِ النِّسَاءِ مَا يَجُوزُ مِنْهَا وَمَا لَا يَجُوزُ

207. WHAT TESTIMONY OF WOMEN IS VALID OR INVALID

٦٤٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : شَهَادَةُ النِّسَاءِ مَعَ الرِّجَالِ جَائِزَةٌ فِي كُلِّ شَيْءٍ مَا خَلا الْحُدُودِ .

646. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, 'Testimony of women along with men is valid in everything apart from *ḥadd* punishments.'"[1760] [1761]

قَالَ مُحَمَّدٌ : وَنَحْنُ نَقُولُ : مَا خَلا الْحُدُودِ وَالْقِصَاصِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "And we say apart from *ḥadd* punishments and retaliation."

٦٤٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ : أَنَّهُ كَانَ يُجِيزُ شَهَادَةَ الْمَرْأَةِ عَلَى الاسْتِهْلالِ فِي الصَّبِيِّ .

647. Muḥammad said, "Abū Ḥanīfah informed us saying, 'Ḥammād narrated to us from Ibrāhīm that he used to consider women's testimony valid on whether a child was born alive or not."[1762]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، إِذَا كَانَتْ عَدْلاً مُسْلِمَةً ، وَكَانَ أَبُو حَنِيفَةَ يَقُولُ : لا تُقْبَلُ عَلَى الاسْتِهْلالِ إِلاَّ شَهَادَةُ رَجُلَيْنِ ، أَوْ رَجُلٍ وَامْرَأَتَيْنِ ، فَأَمَّا الْوِلادَةُ من الزَّوْجَةِ فَتُقْبَلُ فِيهَا شَهَادَةُ الْمَرْأَةِ إِذَا كَانَتْ عَدْلاً مُسْلِمَةً ، فَهَذَا عِنْدَنَا سَوَاءٌ .

Muḥammad said, "We adhere to this if she is a Muslim woman of acceptable testimony. Abū Ḥanīfah used to say, 'Only the testimony of two men or one man and two women is accepted with respect to whether a child was born alive or not. As for birth from a wife then the testimony of a woman is accepted if she is a Muslim woman of acceptable testimony.' But as for us, then these two are the same."

بَابُ مَنْ لا تُقْبَلُ شَهَادَتُهُ لِلْقَرَابَةِ وَغَيْرِهَا

208. SOMEONE WHOSE TESTIMONY IS NOT ACCEPTED BECAUSE HE IS A CLOSE RELATIVE OR FOR OTHER REASONS

٦٤٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا الْهَيْثَمُ عَنْ شُرَيْحٍ قَالَ : أَرْبَعَةٌ لا تَجُوزُ شَهَادَةُ بَعْضِهِمْ لِبَعْضٍ : الْمَرْأَةِ لِزَوْجِهَا ، وَالزَّوْجِ لامْرَأَتِهِ ، وَالأَبِ لابْنِهِ ، وَالابْنِ لأَبِيهِ ، وَالشَّرِيكِ لِشَرِيكِهِ ، وَالْمَحْدُودِ حَدّاً فِي قَذْفٍ .

648. Muḥammad said, "Abū Ḥanīfah informed us saying, 'Al-Haytham narrated to us from Shurayḥ who said, "There are four people whose testimonies are not accepted on behalf of each other: the wife on behalf of her husband the husband on behalf of his wife, the father on behalf of his son and the son on behalf of his father, business partners on behalf of each other, and the testimony of someone punished for accusations of sexual impropriety."'"[1763]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى ، إِلاَّ أَنَّا نَقُولُ: تَجُوزُ شَهَادَةُ الشَّرِيكِ لِشَرِيكِهِ فِي غَيْرِ شِرْكَتِهِمَا .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him, except that we say the testimony of business partners for each other is accepted in matters outside of their partnership."

٦٤٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا الْهَيْثَمُ عَنْ عَامِرٍ الشَّعْبِيِّ أَنَّهُ قَالَ: لا تَجُوزُ شَهَادَةُ الْمَرْأَةِ لِزَوْجِهَا ، وَالزَّوْجِ لامْرَأَتِهِ ، وَالأَبِ لابْنِهِ ، وَالابْنِ لأَبِيهِ ، وَلا الشَّرِيكِ لِشَرِيكِهِ . والله أعلم .

649. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Al-Haytham narrated to us from ʿĀmir ash-Shaʿbī that he said, “A wife’s testimony on behalf of her husband is not accepted nor that of a husband on behalf of his wife, nor that of a father on behalf of his son nor that of a son on behalf of his father, nor that of business partners on behalf of each other, and Allah knows best.”’”

◆

بَابُ شَهَادَةِ الصِّبْيَانِ

209. THE TESTIMONY OF SMALL CHILDREN

٦٥٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ شُرَيْحٍ قَالَ : كَتَبَ
هِشَامٌ إِلَى ابْنِ هُبَيْرَةَ يَسْأَلُه عَنْ خَمْسٍ : عَنْ شَهَادَاتِ الصِّبْيَانِ ، وَعَنْ جِرَاحَاتِ النِّسَاءِ
وَالرِّجَالِ ، وَعَنْ دِيَةِ الأَصَابِعِ ، وَعَنْ عَيْنِ الدَّابَّةِ ، وَالرَّجُلِ يُقِرُّ بِوَلَدِه عِنْدَ الْمَوْتِ ،
فَكَتَبَ إِلَيْهِ : إِنَّ شَهَادَةَ الصِّبْيَانِ بَعْضُهُمْ عَلَى بَعْضٍ جَائِزَةٌ إِذَا اتَّفَقُوا ، وَجِرَاحَاتُ
النِّسَاءِ وَالرِّجَالِ يَسْتَوِيَانِ فِي السِّنِّ وَالْمُوضِحَةِ ، وَتَخْتَلِفَانِ فِيمَا سِوَى ذَلِكَ ، وَدِيَةُ
أَصَابِعِ الْيَدَيْنِ وَالرِّجْلَيْنِ سَوَاءٌ ، وَفِي عَيْنِ الدَّابَّةِ رُبُعُ ثَمَنِهَا ، وَالرَّجُلُ يُقِرُّ بِوَلَدِه عِنْدَ
الْمَوْتِ إِنَّه أَصْدَقُ مَا يَكُونُ عِنْدَ الْمَوْتِ .

650. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm from Shurayḥ who said, ‘Hishām wrote to Ibn Hubayrah to ask him about five things: testimony of small children, compensatory payments for injuries caused by men and women to each other, compensatory payments for fingers, [the compensatory payment for] an animal’s eye, and a man who claims the paternity of a child of his on his deathbed. He wrote back to him, “Small

children's testimony on behalf of each other is valid if they are all agreed.[1764] The compensatory payments for injuries to men and women are the same in the cases of teeth and wounds that lay bare the bone but in all other cases they are different. The compensatory payments for fingers and toes are the same. For the eye of an animal there is due a quarter of its value. As for a man claiming the paternity of his child, then the time of death is when he is in the most truthful condition.'"

قَالَ مُحَمَّدٌ : وَبِهَذَا كُلِّهِ نَأْخُذُ إِلَّا فِي خَصْلَتَيْنِ : أَحَدُهُمَا شَهَادَةُ الصِّبْيَانِ عِنْدَنَا بَاطِلٌ، اتَّفَقُوا أَوِ اخْتَلَفُوا لِأَنَّ اللَّهَ تَعَالَى يَقُولُ فِي كِتَابِهِ: ﴿وَأَشْهِدُوا ذَوَيْ عَدْلٍ مِنْكُمْ﴾، وَ ﴿وَاسْتَشْهِدُوا شَهِيدَيْنِ مِنْ رِجَالِكُمْ فَإِنْ لَمْ يَكُونَا رَجُلَيْنِ فَرَجُلٌ وَامْرَأَتَانِ مِمَّنْ تَرْضَوْنَ مِنَ الشُّهَدَاءِ﴾، فَالصِّبْيَانُ لَيْسُوا مِمَّنْ يُوصَفُ أَنْ يَكُونُوا عُدُولاً . وَلَا مِمَّنْ يُرْضَى بِهِ مِنَ الشُّهَدَاءِ . وَالْخَصْلَةُ الْأُخْرَى جِرَاحَاتُ النِّسَاءِ عَلَى النِّصْفِ مِنْ جِرَاحَاتِ الرِّجَالِ فِي السِّنِّ وَالْمُوضِحَةِ وَغَيْرِ ذَلِكَ . وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to all of this except in two respects: the testimony of small children in our view is invalid whether they agree or differ because Allah, exalted is He, says in His Book, '*Call two upright men from among yourselves*[1765] *as witnesses*' (Sūrat aṭ-Ṭalāq: 2), and '*Two men among you should act as witnesses. But if there are not two men, then a man and two women with whom you are satisfied as witnesses*' (Sūrat al-Baqarah: 281), and small children are not among those described as upright and they are not among those witnesses with whom one is satisfied. The other matter is that injuries to women are [compensated] at the rate of a half of those of men in [injuries] to teeth and wounds which lay bare the bone and other things, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

٦٥١ مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ قَالَ : أَرْبَعَةٌ لا تَجُوزُ فِيهَا شَهَادَةُ النِّسَاءِ : الزِّنَا ، وَالْقَذْفُ، وَشُرْبُ الْخَمْرِ ، وَالسُّكْرُ .

651. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm who said, “There are four things with respect to which the testimony of women is not valid: adultery and fornication, accusations of sexual impropriety, drinking wine, and intoxicants.”’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

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[1748] *ahl adh-dhimmah* are Jews and Christians living under Muslim governance by a treaty with the Muslims. – Trans.

[1749] Abū Yūsuf narrated it on p.166.

[1750] Abū Yūsuf narrated it on p.162.

[1751] In accepting Islam, whatever actions were before it are expunged from his record.

[1752] Allah, exalted is He, says, “*Such people are deviators*” (Sūrat an-Nūr: 4). – Trans.

[1753] Abū Yūsuf narrated it on pp.162-3.

[1754] Ash-Shāfiʿī, Mālik and Aḥmad gave this verdict because of His words, exalted is He, “*except for those who after that make tawbah*” (Sūrat an-Nūr: 5), but we say that the exception is related to that which is nearest to it which is His words, exalted is He, “*Such people are deviators*” (Sūrat an-Nūr: 4), but not His words, exalted is He, “*and never again accept them as witnesses*” (Sūrat an-Nūr: 4), as is stated plainly in the tradition of Ibrāhīm an-Nakhaʿī.

[1755] Abū Yūsuf narrated it on p.163.

[1756] The original text had *fa’ḥzurūh*: calculate it, which I take to be a mistake for *fa’ḥdharūh*, beware of him, and this is corrected also in our Arabic text above. – Trans.

[1757] See other traditions in the *Muṣannaf* of Ibn Abī Shaybah, vol.5, p.527.

[1758] Jaṣṣāṣ said, “This is in our view on the basis that if he comes in *tawbah* but if he is persistent then there is no difference of opinion among them in my view that he is given a discretionary punishment.”

[1759] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.5, p.527.

[1760] Because in women’s testimony there is the doubtful circumstance of *badaliyyah* for the discharge of women’s testimony along with men’s testimony, so that it is not accepted in those matters which are averted because of dubious circumstances.

[1761] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.5, p.528.

[1762] The sound of the baby’s voice at birth [among whose implications are matters of inheritance etc. – Trans.]

[1763] Abū Yūsuf narrated it on p.162.

[1764] This was Mālik’s verdict.

[1765] Literally “*from among your men* (*rijāl*)” and the child is neither a man nor a woman and so his testimony is not accepted.

INHERITANCE AND BEQUESTS

بَابُ مَا يَجُوزُ من الْوَصِيَّةِ

210. INVALID BEQUESTS

٦٥٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا عَطَاءُ بْنُ السَّائِبِ عَنْ أَبِيه عَنْ سَعْدِ بْنِ أَبِي وَقَّاصٍ رَضِيَ الله عَنْه قَالَ : دَخَلَ النَّبِيُّ صلى الله عَلَيْهِ وَسَلَّمَ عَلَيَّ يَعُودُنِي ، قَالَ : فَقُلْتُ : يَا رَسُولَ اللَّهِ ! أُوصِي بِمَالِي كُلِّه ؟ قَالَ : لا ، فَقُلْتُ : بِالنِّصْفِ ؟ قَالَ : لا ، فَقُلْتُ : بِالثُّلُثِ ؟ قَالَ : الثُّلُث ، وَالثُّلُثُ كَثِيرٌ ، لا تَدَعْ أَهْلَكَ يَتَكَفَّفُونَ النَّاسَ .

652. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘ʿAṭā’ ibn as-Sā’ib narrated to us from his father from Saʿd ibn Abī Waqqāṣ ؓ who said, “The Prophet ﷺ came to visit me when I was sick,” and he said, “I said, ‘Messenger of Allah, should I make a bequest of all of my wealth?’ and he said, ‘No.’ I said, ‘A half?’ He said, ‘No.’ I said, ‘A third[1766]?’ He said, ‘A third, and a third is a lot. Do not leave your family holding out their hands [to beg][1767] from people.’”’”[1768]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، لا تَجُوزُ الْوَصِيَّةُ لِأَحَدٍ بِأَكْثَرَ من الثُّلُثِ ، فَإِنْ أَوْصَى بِأَكْثَرَ من الثُّلُث فَأَجَازَ ذَلِكَ الْوَرَثَةُ بَعْدَ مَوْتِه فَهُوَ جَائِزٌ ، وَلَيْسَ لِلْوَارِثِ أَنْ يَرْجِعَ فِيمَا أَجَازَ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. It is not valid to makes a bequest of more than a third to anyone. If someone makes a bequest of more than a third and the heirs[1769] permit it after his death, it is permissible. An heir is not allowed to go back on anything he has permitted. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٦٥٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ حَدَّثَنَا الْقَاسِمُ بْنُ عَبْدِ الرَّحْمن عَنْ أَبِيه عَنْ عَبْدِ اللَّهِ بن مَسْعُودٍ رَضِيَ الله عَنْهُ في الرَّجُلِ يُوصِي بِالْوَصِيَّةِ فَيُجِيزُهَا الْوَرَثَةُ في حَيَاتِهِ ثُمَّ يَرُدُّونَهَا بَعْدَ مَوْتِه قَالَ : ذَلِكَ لِلتَّكَرُّه، وَ لا يَجُوزُ.

653. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Al-Qāsim ibn ʿAbd ar-Raḥmān narrated to us from his father from ʿAbdullāh ibn Masʿūd ؓ concerning a man who bequeaths a bequest which the heirs validate during his life[1770] and then reject after his death, that he said, “That is denial; [the bequest] is not valid.”’”[1771] [1772]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، إِجَازَةُ الْوَرَثَةِ الْوَصِيَّةَ قَبْلَ الْمَوْتِ لَيْسَ بِشَيْءٍ ، فَإِنْ أَجَازُوهَا بَعْدَ الْمَوْتِ وَهِيَ لِوَارِثٍ أَوْ أَكْثَرَ من الثُّلُثِ فَذلِكَ جَائِزٌ ، وَلَيْسَ لَهُمْ أَنْ يَرْجِعُوا فيه ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. The heirs’ validation of the bequest before his death is nothing.[1773] If they permit it after his death and it is for one of the heirs or is more than a third,[1774] it is valid, and they are unable to renege on that, and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ الرَّجُلِ يُوصِي بِالْوَصَايَا أَوْ بِالْعِتْقِ

211. A MAN WHO MAKES BEQUESTS OR BEQUEATHS THE SETTING FREE OF A SLAVE

٦٥٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا قَالَ الرَّجُلُ فِي الْوَصِيَّةِ: فُلَانٌ حُرٌّ، وَأَعْطُوا فُلَانًا أَلْفَ دِرْهَمٍ بُدِئَ بِالْعِتْقِ، وَإِذَا قَالَ: أَعْتِقُوا فُلَانًا ، وَأَعْطُوا فُلَانًا كَذَا وَكَذَا ، فَبِالْحِصَصِ، وَإِذَا قَالَ : أَعْطُوا فُلَانًا هَذَا الْعَبْدَ بِعَيْنِهِ، وَأَعْطُوا فُلَانًا كَذَا وَكَذَا بُدِئَ بِهَذَا الَّذِي بِعَيْنِهِ مِن الثُّلُثِ.

654. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man said in bequest, “So-and-so is free and give so-and-so a thousand dirhams,” then one begins with the act of setting free. If he said, “Free so-and-so and give so-and-so such-and-such,” then it is according to the [fixed] shares. If he said, “Give so-and-so this specific slave and give so-and-so such-and-such,” then one begins[1775] with this specific item from the third [permitted in bequest].’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ فِيمَا وَصَفَ مِن الْعِتْقِ ، فَأَمَّا إِذَا قَالَ : أَعْطُوا فُلَانًا هَذَا الْعَبْدَ بِعَيْنِهِ ، وَأَعْطُوا فُلَانًا كَذَا وَكَذَا ، تَحَاصَّا فِي الثُّلُثِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this in respect to what he describes of setting free. As for if he says, ‘Give so-and-so this specific slave and give so-and-so such-and-such,’ then they take it proportionately from the third, and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٦٥٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يُوصِي لِلرَّجُلِ الْعَبْدَ بِعَيْنِهِ ، وَيُوصِي لِآخَرَ بِثُلُثِ مَالِهِ ، قَالَ : يُعْطَى هَذَا الْعَبْدَ ، وَيُعْطَى هَذَا مَا بَقِيَ إِنْ بَقِيَ شَيْءٌ، وَإِنْ أَوْصَى لِهَذَا بِمِائَةِ دِرْهَمٍ ، وَلِهَذَا بِثُلُثِ مَالِهِ أُعْطِيَ هَذَا مِائَةً، وَالآخَرَ مَا بَقِيَ .

655. Muḥammad said, Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm concerning a man who bequeathed a specific slave to a man and

bequeathed a third of his wealth to another man, that he said, ‘This one is given the slave and the other is given what is left over [from the third] if anything remains. Even if he bequeathed a hundred dirhams to one of them and a third of his wealth to the other, the one is given the hundred and the other what remains.’”

قَالَ مُحَمَّدٌ : وَلَسْنَا نَأْخُذُ بِهَذَا وَلَكِنْ صَاحِبَي الْوَصِيَّةِ يَتَحَاصَّانِ فِي الثُّلُثِ بِوَصِيَّتِهِمَا ،
وَلَا يَكُونُ وَاحِدٌ مِنْهُمَا بِأَحَقَّ بِالثُّلُثِ مِن صَاحِبِهِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We do not adhere to this, but the two men who receive bequests share proportionately in the third with their bequests, and neither of them has more right[1776] to the third than the other, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٦٥٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يُعْتِقُ ثُلُثَ
عَبْدِهِ عِنْدَ الْمَوْتِ وَقَدْ أَوْصَى بِوَصَايَا قَالَ : بُدِئَ بِعِتْقِ ثُلُثِ غُلَامِهِ ، وَلَا يَعْتِقُ مِنْهُ إِلَّا
مَا أَعْتَقَ وَيُسْتَسْعَى فِيمَا لَمْ يُعْتَقْ مِنْهُ ، فَإِذَا أَوْصَى مَعَ عِتْقِ ثُلُثِهِ بِوَصَايَا وَلَهُ مَالٌ جُعِلَ
ثُلُثَا سِعَايَتِهِ فِيمَا أَوْصَى بِهِ ، وَلَا أَجْعَلُ ذَلِكَ لِلْوَرَثَةِ .

656. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who set free a third of his slave at death[1777] and made other bequests, ‘One begins with setting free a third of his slave, and only that of him is set free which he had set free, and then he [the slave] is set to work [to pay] for the freeing of that of himself which he had not set free. If he made bequests along with freeing him and he had wealth, then the two thirds of [the slave’s] endeavour and working to free himself are paid from that which he made a bequest of, and I do not regard that as belonging to the heirs.’”

قَالَ مُحَمَّدٌ : وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى ، وَأَمَّا فِي قَوْلِنَا فَإِذَا عَتَقَ ثُلُثُه
عَتَقَ كُلُّهُ ، وَبُدِىءَ بِهِ من ثُلُثِ مَالِ الْمَيِّتِ قَبْلَ الْوَصَايَا ، فَإِنْ بَقِيَ شَيْءٌ كَانَ لِأَصْحَابِ
الْوَصَايَا بِالْحِصَصِ .

Muḥammad said, “That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him. As for our verdict, it is that when a third of him is set free all of him is set free,[1778] and one begins with him from out of the third of the deceased’s wealth before any bequests. If anything remains, it belongs in proportionate shares to those people to whom bequest was made.”

٦٥٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يُعْتِقُ عَبْدَه
عِنْدَ الْمَوْتِ وَعَلَيْهِ دَيْنٌ ، قَالَ : يُسْتَسْعَى فِي قِيمَتِه .

657. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man on his deathbed who set his slave free while still owing a debt, ‘He is set to work to pay his own price.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ إِذَا كَانَ الدَّيْنُ مِثْلَ الْقِيمَةِ أَوْ أَكْثَرَ وَلَمْ يَكُنْ لَهُ مَالٌ غَيْرُه ، فَإِنْ
كَانَ الدَّيْنُ أَقَلَّ من الْقِيمَةِ سَعَى فِي مِقْدَارِ الدَّيْنِ من قِيمَتِه لِلْغُرَمَاءِ ، وَفِي ثُلُثَيْ مَا بَقِيَ
لِلْوَرَثَةِ ، وَكَانَ لَهُ الثُّلُثُ وَصِيَّةً ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this if the debt is the same as his price or more and he has no other wealth. If the debt[1779] is less than the price, then he is set to work for the measure of the debt from his price for the creditors and for the two thirds of what remains to the heirs, and the third is his as a bequest, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٦٥٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : الْكَفَنُ من جَمِيعِ الْمَالِ .

658. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘The shroud is [bought] from the entirety of the property [and not from the third that can be bequeathed].’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، يُبْدَأُ بِهِ قَبْلَ الدَّيْنِ وَالْوَصِيَّةِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this, and one begins with it before the debt and the bequest, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٦٥٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : مَا أَوْصَى بِهِ
الْمَيِّتُ مِن وَصِيَّةٍ كَانَتْ عَلَيْهِ ، أَوْ صَوْمًا ، أَوْ نَذْرًا أَوْ كَفَّارَةَ يَمِينٍ فَهُوَ مِنَ الثُّلُثِ إِلاَّ أَنْ
تَشَاءَ الْوَرَثَةُ .

659. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Everything the deceased leaves as a bequest is his responsibility,[1780] or a fast, or a vow, or the expiation of an oath, then it is to come from the third unless the heirs will otherwise.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى ، وَكَذَلِكَ مَا أَوْصَى بِهِ
مِن حَجَّةٍ فَرِيضَةٍ ، أَوْ زَكوةٍ أَوْ غَيْرِ ذَلِكَ فَهُوَ مِنَ الثُّلُثِ ، إِلاَّ أَنْ يُجِيزَ الْوَرَثَةُ مِن جَمِيعِ
الْمَالِ فَيَجُوزُ . وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him. It is similar in the case of a bequest for an obligatory Hajj or [unpaid] *zakāh* or anything else, for that is [taken] from out of the third unless the heirs permit it out of the entirety of the estate in which case it is valid. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٦٦٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : يُبْدَأُ بِالْعِتْقِ مِن
الْوَصِيَّةِ ، فَإِنْ فَضَلَ شَيْءٌ مِنَ الثُّلُثِ قُسِمَ بَيْنَ أَهْلِ الْوَصِيَّةِ .

660. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘From the bequest one begins with setting free, and if anything of the third remains it is divided among the people to whom he bequeathed.’”[1781]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ فِي الْعِتْقِ الْبَاتِّ فِي الْمَرَضِ وَالتَّدْبِيرِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ
رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this in respect to the act of setting free which takes place in [the final] sickness[1782] and with respect to the act of setting a slave free after the death of the master (*tadbīr*)[1783] and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٦٦١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : مَا أَوْصَى بِهِ الْمَيِّتُ
مِن نَذْرٍ أَوْ رَقَبَةٍ فَمِن ثُلُثِه .

661. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Whatever the deceased has made a bequest for, whether a vow or a slave, then it is from his third.’”[1784]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٦٦٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : الْحُبْلَى إِذَا أَوْصَتْ
وَهِيَ تُطْلَقُ ، ثُمَّ مَاتَتْ فَوَصِيَّتُهَا مِن الثُّلُثِ .

662. Muḥammad said, “The pregnant woman who makes a bequest and she suffers a painful delivery and dies, her bequest comes out of the third.”[1785]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وإنما يَعْنِي بِقَوْلِه : وَصِيَّتُهَا مِن الثُّلُثِ ، يَقُوْلُ : مَا وَهَبَتْ أَوْ
تَصَدَّقَتْ بِهِ فِي تِلْكَ الْحَالِ فَهُوَ مِن الثُّلُثِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. He only meant by his saying that her bequest is to come out of the third, to say that, ‘Whatever she gives as a gift or as a *ṣadaqah* in this state comes out of the third,’ and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٦٦٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يَشْتَرِي ابْنَه عِنْدَ الْمَوْتِ بِأَلْفِ دِرْهَمٍ : أَنَّه إِنْ بَلَغَ الَّذِي أَعْطَى فِيهِ الثُّلُثَ وَرِثَ . وَإِنْ كَانَ ثَمَنُه دُونَ الثُّلُثِ وَرِثَ ، وَإِنْ كَانَ أَكْثَرَ من الثُّلُثِ وَاسْتُسْعِيَ فِي شَيْءٍ لَمْ يَرِثْ .

663. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm concerning a man on the point of death who buys his son for a thousand dirhams, that if what he pays for him amounts to a third then he [the son] inherits, and if his price is less than the third he inherits. If his price is more than the third and he is set to work to pay off any of it, then he does not inherit.”

قَالَ مُحَمَّدٌ : وهذَا كُلُّه قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى ، وَأَمَّا فِي قَوْلِنَا فَإِنَّه يَرِثُ فِي ذَلِكَ كُلِّهِ ، وَقِيمَتُه دَيْنٌ عَلَيْهِ يُحَاسَبُ بِهَا بِمِيرَاثِه ، وَيُؤَدِّي نَفْلاً إِنْ كَانَ عَلَيْهِ ، وَيَأْخُذُ فَضْلاً إِنْ كَانَ لَهُ لِأَنَّهُ وَارِثٌ ، وَرَقَبَتُه وَصِيَّةٌ لَهُ ، وَلَا يَكُونُ لِوَارِثٍ وَصِيَّةٌ .

Muḥammad said, “This is all the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him. As for our verdict it is that he inherits in all of those cases, and his price is a debt which he owes and which is reckoned from his inheritance, and he pays back any extra if he owes it and he takes the surplus if he is owed it because he is an heir and his [being freed from his] slavehood is bequeathed to him and an heir may not also receive a bequest.”

◆

بَابُ فَضْلِ الْعِتْقِ

212. THE MERIT OF SETTING SLAVES FREE

٦٦٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ عِمْرَانَ بْنِ عُمَيْرٍ عَنْ أَبِيه عَنْ عبدِ الله بْنِ مَسْعُودٍ رَضِيَ الله عَنْه أَنَّهُ أَعْتَقَ مَمْلُوكًا لَهُ ، فَقَالَ له : أَمَا إِنَّ مَالَكَ لِي ، وَلَكِنِّي سَأَدَعُه لَكَ .

664. Muḥammad said, “Abū Ḥanīfah informed us from ʿImrān ibn ʿUmayr from his father that ʿAbdullāh ibn Masʿūd ﵁ set a slave of his free and said to him, ‘Even though your property[1786] belongs to me, I will leave it to you.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، مَنْ أَعْتَقَ مَمْلُوكًا أَوْ كَاتَبَه فَمَالُه لِمَوْلَاهُ . وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. If someone sets a slave free or writes a contract with him for him to purchase his own freedom, then his property belongs to his owner, and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٦٦٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : مَنْ أَعْتَقَ نَسَمَةً أَعْتَقَ اللَّهُ بِكُلِّ عُضْوٍ مِنْهَا عُضْوًا مِنْهُ من النَّارِ حَتَّى إِنْ كَانَ الرَّجُلُ لَيَسْتَحِبُّ أَنْ يُعْتِقَ الرَّجُلَ لِكَمَالِ أَعْضَائِه ، وَالْمَرْأَةُ تُعْتِقُ الْمَرْأَةَ لِكَمَالِ أَعْضَائِهَا .

665. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Whoever frees a soul,[1787] then for every limb of his [the slave’s] Allah will free a limb of his [the owner’s] from the Fire,[1788] so much so that if it is a man it is recommended that he free a man because of the perfection of his limbs, and that a woman free a woman because of the perfection of her limbs.’”

بَابُ عِتْقِ الْمُدَبَّرِ وَأُمِّ الْوَلَدِ

213. FREEING A SLAVE ON THE DEATH OF HIS MASTER OR AN *UMM WALAD*

٦٦٦ – مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ: فِي وَلَدِ الْمُدَبَّرَةِ: الْمَوْلُودُ فِي حَالِ تَدْبِيرِهَا بِمَنْزِلَتِهَا .

666. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning the child of a woman who is to be set free on the death of her owner, ‘At the time of her being granted freedom on the death of her master, the child is of the same status as her.’”[1789] [1790]

قَالَ مُحَمَّدٌ: وَبِهِ نَأْخُذُ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٦٦٧ – مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ: وَلَدُ أُمِّ الْوَلَدِ من غَيْرِ سَيِّدِهَا إِذَا وَلَدَتْهُ وَهِيَ أُمُّ وَلَدٍ بِمَنْزِلَتِهَا .

667. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘A child of an *umm walad*, who is not himself the child of her owner, to whom she gave birth while being an *umm walad* has the same status as her.’”[1791]

قَالَ مُحَمَّدٌ: وَبِهِ نَأْخُذُ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٦٦٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ عُمَرَ بْنِ الْخَطَّابِ
رَضِيَ الله عَنْه أنَّهُ كَانَ يُنَادِي عَلَى مِنبَرِ رَسُولِ اللَّهِ صلى الله عَلَيْهِ وَسَلَّمَ فِي بَيْعِ أُمَّهَاتِ
الأَوْلادِ : إِنَّه حَرَامٌ ، إِذَا وَلَدَتِ الأَمَةُ لِسَيِّدِهَا عَتَقَتْ ، وَلَيْسَ عَلَيْهَا بَعْدَ ذَلِك رِقٌّ .

668. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿUmar ibn al-Khaṭṭāb ؓ used to cry out on the minbar of the Messenger of Allah ﷺ that the sale of *umm walads* is *ḥarām*, ‘When the slave woman gives birth to her master’s child she becomes free, and there is no slavehood after that for her.’”[1792]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ إِلاَّ أَنَّهَا مُتْعَةٌ لَهُ يَطَأُهَا مَا دَامَ حَيّاً .

Muḥammad said, “We adhere to this except that she is there for his enjoyment and for him to have sexual intercourse[1793] with as long as he is alive.”

٦٦٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ فِي السِّقْطِ من
الأَمَةِ : أنَّهُ مَا كَانَ لا يَسْتَبِينُ لَهُ إِصْبَعٌ أَوْ عَيْنٌ أَوْ فَمٌ إِنَّهَا لا تُعْتَقُ وَلَا تَكُونُ بِهِ أُمَّ وَلَدٍ .

669. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm concerning a slave woman’s miscarried baby[1794] that if it’s finger, eye or mouth are not distinct then she is not set free and she does not have the status of an *umm walad*.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ إِذَا لَمْ يَسْتَبِنْ من السِّقْطِ شَيْءٌ يُعْرَفُ أنَّهُ وَلَدٌ ؛ لَمْ تَكُنْ بِهِ أُمُّه
أُمَّ وَلَدٍ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this; if nothing of the miscarried foetus is distinct so that it is clear that it is a child then she does not have the status of an *umm walad*, and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٦٧٠ - مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ: حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ فِي أُمِّ وَلَدٍ تَفْجُرُ، قَالَ : لا تُبَاعُ عَلَى حَالٍ .

670. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm concerning an *umm walad* who commits adultery, that he said, “She is not to be sold in any case.”’”[1795]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٦٧١ - مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يُزَوِّجُ أُمَّ وَلَدِهِ عَبْداً فَتَلِدُ أَوْلَادًا ثُمَّ يَمُوتُ قَالَ : فَهِيَ حُرَّةٌ ، وَأَوْلَادُهَا أَحْرَارٌ وَهِيَ بِالْخِيَارِ ، إِنْ شَاءَتْ كَانَتْ مَعَ الْعَبْدِ ، وَإِنْ شَاءَتْ لَمْ تَكُنْ .

671. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who marries an *umm walad* to a slave to whom she bears children and then he [her owner] dies, ‘Then she is free and her children are free, and she has the choice, such that if she wishes she remains with the slave and if she wishes she does not.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ الْعَبْدِ يَكُونُ بَيْنَ الرَّجُلَيْنِ فَيُعْتِقُ أَحَدُهُمَا نَصِيبَهُ

214. A SLAVE JOINTLY OWNED BY TWO MEN ONE OF WHOM SETS HIS PORTION FREE

٦٧٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا يَزِيْدٌ عَنْ عَبْدِ الرَّحْمنِ عَنِ
الأَسْوَدِ أَنَّه أَعْتَقَ مَمْلُوكًا بَيْنَه وَبَيْنَ إِخْوَةٍ لَه صِغَارٍ . فَذَكَرَ ذٰلِكَ لِعُمَرَ بْنِ الْخَطَّابِ رَضِيَ
اللهُ عَنْه ، فَأَمَرَه أَنْ يُقَوِّمَهُ وَيُرْجِئَهُ حَتَّى تُدْرِكَ الصِّبْيَةُ ، فَإِنْ شَاءُوا أَعْتَقُوا وَإِنْ شَاءُوا
ضَمِنُوا .

672. Muḥammad said, "Abū Ḥanīfah informed us saying, 'Yazīd narrated to us from ʿAbd ar-Raḥmān that al-Aswad set free a slave whom he and some younger brothers of his owned jointly. He mentioned that to ʿUmar ibn al-Khaṭṭāb ﵁ and he told him to keep him and delay the matter until the children reached puberty, and then if they wished[1796] they could set him free and if they wished they could take the responsibility.'"[1797] [1798]

قَالَ مُحَمَّدٌ : وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللّٰهُ تَعَالَى ، إِذَا كَانَ الْمُعْتِقُ مُوسِرًا ، وَأَمَّا فِي
قَوْلِنَا فَإِذَا أَعْتَقَ أَحَدُهُمْ فَقَدْ صَارَ الْعَبْدُ حُرًّا كُلُّهُ ، وَلَا سَبِيلَ لِلْبَاقِينَ الي عِتْقِه بَعْدَ
ذٰلِكَ ، فَإِنْ كَانَ الْمُعْتِقُ مُوسِرًا ضَمِنَ حِصَصَ أَصْحَابِه ، وَإِنْ كَانَ مُعْسِرًا سَعَى الْعَبْدُ
لِأَصْحَابِه فِي حِصَصِهِمْ من قِيمَتِه .

Muḥammad said, "That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him, if the person who is setting free is prosperous. As for our verdict, if one of them sets him free, the slave becomes entirely free, and the others have no way to set him free after that. If the one who sets the slave free is prosperous, he is responsible for the shares of the others, but if he is in restricted circumstances, the slave is set to work to repay the other owners their share of his price."

٦٧٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الْعَبْدِ بَيْنَ اثْنَيْنِ فَيُعْتِقُ
أَحَدُهُمَا قَالَ : الآخَرُ إِنْ شَاءَ أَعْتَقَ ، وَكَانَ الْوَلَاءُ بَيْنَهُمَا ، أَوْ يُضَمِّنُه وَيَكُونُ الْوَلَاءُ
لِلضَّامِنِ ، وَإِنْ كَانَ مُعْسِرًا اسْتَسْعَاهُ ، وَكَانَ الْوَلَاءُ بَيْنَهُمَا .

673. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm concerning a slave who is jointly owned by two people one of whom sets him free. He said, ‘The other, if he wishes, may set him free and the status of *walā’*[1799] is shared between them or he may take responsibility [for the entire price] and so the *walā’* belongs to the one who takes that responsibility. If he is in restricted circumstances, he may set the slave to work [to repay his share of the price] and the status of *walā’* is shared between them.’”[1800]

قَالَ مُحَمَّدٌ : وهذا قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى ، وَأَمَّا فِي قَوْلِنَا فَلَا سَبِيلَ لَهُ إِلَى عِتْقِهِ بَعْدَ عِتْقِ صَاحِبِهِ وَقَدْ صَارَ حُرّاً حِينَ أَعْتَقَهُ صَاحِبُه ، وَإِنْ كَانَ الْمُعْتِقُ مُوسِرًا ضَمِنَ حِصَّةَ صَاحِبِهِ ، فَإِنْ كَانَ مُعسِرًا سَعَى الْعَبْدُ فِي حِصَّةِ صَاحِبِهِ ، لَيْسَ لَهُ غَيْرُ ذَلك وَالْوَلَاءُ فِي الْوَجْهَيْنِ جَمِيعًا لِلْمَوْلَى الْمُعْتِقِ الأَوَّلِ .

Muḥammad said, “That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him. As for our verdict, it is that he has no way to set him free after his fellow has set him free, and that the slave becomes free when his fellow sets him free. If the one who sets the slave free is prosperous, he is responsible for the share of his fellow, but if he is in restricted circumstances, the slave must work [to repay his share of the price] and he has no other recourse than that, and in both cases the *walā’* belongs to the first master who set him free.”

◆

بَابُ مَنْ أَعْتَقَ نِصْفَ عَبْدِه

215. SOMEONE WHO SETS A HALF OF HIS SLAVE FREE

٦٧٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا أَعْتَقَ الرَّجُلُ نِصْفَ عَبْدِهِ فِي صِحَّتِهِ لَمْ يَعْتِقْ مِنْهُ إِلَّا مَا أَعْتَقَ عنهُ ، وَسَعى فِيمَا لَمْ يُعْتَقْ مِنْهُ .

674. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man in good health sets a half of his slave free then only that amount of him which he set free is free, and he must work to repay the rest of that which he has not set free.”

قَالَ مُحَمَّدٌ : وهذا قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى ، وَأَمَّا فِي قَوْلِنَا فَإِذَا أَعْتَقَ مِنْهُ جُزْءً قَلَّ أَوْ كَثُرَ عَتَقَ كُلُّهُ ، وَلَمْ يَسْعَ لَهُ فِي شَيْءٍ . وَاللَّهُ سُبْحَانَه وَتَعَالَى أَعْلَم .

Muḥammad said, “That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him. As for our verdict it is that when he sets free any portion of him, whether great or small, then he has set all of him free,[1801] and he is not set to work to repay anything at all. And Allah ﷻ knows best.

◆

بَابُ مَمْلُوكٍ بَيْنَ رَجُلَيْنِ كَاتَبَ أَحَدُهُمَا نَصِيبَه

216. A SLAVE WHO IS OWNED BY TWO MEN ONE OF WHOM WRITES A CONTRACT WITH THE SLAVE TO PURCHASE HIS FREEDOM IN HIS SHARE

٦٧٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّهُ قَالَ فِي مَمْلُوكٍ بَيْنَ شَرِيكَيْنِ قَالَ : لا يَجُوزُ مُكَاتَبَةُ أَحدِهِمَا إِلَّا بِإِذْنِ شَرِيكِه .

675. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a slave owned by two partners, ‘It is not valid for either of them to write a contract for the slave to purchase his freedom without the permission of the other.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah ﵀ .”

٦٧٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الْعَبْدِ يَكُونُ بَيْنَ رَجُلَيْنِ فَيُكَاتِبُ أَحَدُهُمَا نَصِيبَه قَالَ : لِشَرِيكِهِ أَنْ يَرُدَّ الْمُكَاتَبَةَ إِذَا عَلِمَ ، وَإِذَا كَانَ الْمَمْلُوكُ بَيْنَ اثْنَيْنِ فَأَرَادَ أَحَدُهُمَا أَنْ يُكَاتِبَه عَلَى نَصِيبِه قَالَ : لا يَجُوزُ مُكَاتَبَتُه عَلَى نَصِيبِه إِلَّا بِإِذْنِ صَاحِبِهِ .

676. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm concerning a slave jointly owned by two men one of whom writes a contract with the slave for purchasing his portion of him, ‘His partner may reject the contract if he knows about it.’ If the slave is jointly owned by two people and one of them wants to write him a contract to purchase his portion of him, he said, ‘It is not valid to write a contract for the slave to purchase his portion of him without the permission of his fellow.’”[1802]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ مُكَاتَبَةِ الْمُكَاتَبِ

217. THE CONTRACT WRITTEN WITH THE SLAVE TO PURCHASE HIS FREEDOM

٦٧٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ عَلِيِّ بْنِ أَبِي طَالِبٍ رَضِيَ الله عَنْه فِي الْمُكَاتَبِ قَالَ : يَعْتِقُ مِنْهُ بِقَدْرِ مَا أَدَّى ، وَيَرِقُّ مِنْهُ بِقَدْرِ مَا عَجَزَ .

677. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿAlī ibn Abī Ṭālib ؓ said concerning the contract written for

a slave to purchase his freedom, ‘That much of him for which he has paid is set free and that much of him for which he has not paid is still enslaved.’”[1803]

٦٧٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ عبدِ الله بن مَسْعُودٍ رَضِيَ الله عَنْهُ فِي الْمُكَاتَبِ قَالَ : إِذَا أَدَّى قِيمَةَ رَقَبَتِهِ فَهُوَ غَرِيمٌ .

678. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿAbdullāh ibn Masʿūd ﵁ said concerning a slave who writes a contract to purchase his freedom, ‘If he pays the price of his slavehood then he is a debtor.’”[1804]

٦٧٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ زَيْدِ بْنِ ثَابِتٍ رَضِيَ الله عَنْه فِي الْمُكَاتَبِ قَالَ : هُوَ مَمْلُوكٌ مَا بَقِيَ عَلَيْهِ شَيْءٌ من مُكَاتَبَتِه .

679. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that Zayd ibn Thābit ﵁ said concerning a slave who writes a contract to purchase his freedom, ‘He is a slave[1805] as long as there remains anything of his contract unpaid.’”[1806]

قَالَ مُحَمَّدٌ : وقَوْلُ زَيْدٍ رَضِيَ الله عَنْه أَحَبُّ إِلَيْنَا وَإِلَى أَبِي حَنِيفَةَ فِي الْمُكَاتَبِ من قَوْلِ عَلِيّ وَعَبْدِ اللَّهِ رَضِيَ الله عَنْهما ، وقَالَ أَبُو حَنِيفَةَ : وَهُوَ قَوْلُ عَائِشَةَ رَضِيَ الله عَنْها فِيما بَلَغنا ، وَبِهِ نَأْخُذُ .

Muḥammad said, “And the verdict of Zayd ibn Thābit ﵁ is preferable to me and to Abū Ḥanīfah with respect to a slave who writes a contract to purchase his freedom than the verdict of ʿAlī ibn Abī Ṭālib and ʿAbdullāh ibn Masʿūd ﵄. Abū Ḥanīfah said, ‘It is the verdict of ʿĀ’ishah ﵂ in that which has reached us.’ And we adhere to it.”

٦٨٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ عَلِيِّ بْنِ أَبِي طَالِب
وَعَبْدِ اللَّهِ بْنِ مَسْعُودٍ رَضِيَ الله عَنْهُمَا وَشُرَيْح أَنَّهُمْ كَانُوا يَقُولُونَ : إِذَا مَاتَ الْمُكَاتَبُ
وَتَرَكَ وَفَاءً أُخِذَ مِمَّا تَرَكَ مَا بَقِيَ عَلَيْهِ من مَكَاتَبَتِه فَدُفِعَ إِلَى مَوْلاهُ وَصَارَ مَا بَقِيَ بَعْدَه
لِوَرَثَةِ الْمُكَاتَبِ .

680. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿAlī ibn Abī Ṭālib and ʿAbdullāh ibn Masʿūd ﷺ and Shurayḥ all used to say, ‘If a slave who has written a contract to purchase his freedom dies and leaves enough property [to pay off his contract], what remains of his contracted sum is taken from it[1807] and paid to his owner and whatever is left over[1808] goes to the heirs of the slave.’”[1809]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٦٨١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي قَوْلِ اللَّهِ تَعَالَى :
﴿فَكَاتِبُوهُمْ إِنْ عَلِمْتُمْ فِيهِمْ خَيْرًا﴾ قَالَ : عَلِمْتُمْ أَنَّ فِيهِمْ أَدَاءً .

681. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm spoke concerning the saying of Allah, exalted is He, ‘...*write it [the contract to purchase their freedom] for them if you know of good in them*,’ (Sūrat an-Nur: 33) and that he said, ‘If you know they can pay.’”

٦٨٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا كَاتَبَ الرَّجُلُ
عَبْدَيْنِ لَهُ عَلَى أَلْفِ دِرْهَم مُكَاتَبَةً وَاحِدَةً وَجَعَلَ نُجُومَهَا وَاحِدَةً قَالَ : إِنْ أَدَّيَا فَهُمَا حُرَّانِ
. وَإِنْ عَجَزَا فَهُمَا رُدَّا فِي الرِّقِّ قَالَ إِبْرَاهِيمُ : لا يَعْتَقَانِ حَتَّى يُؤَدِّيَا جَمِيعَ الأَلْفِ .

682. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man writes a contract with two slaves of his to purchase

their freedom for a sum of a thousand dirhams in a single contract and he made its instalments a single one,’ then he said, ‘If they both pay, they are both free. If they are both incapable, they are both returned to slavery.’ Ibrāhīm said, ‘They are not freed until they pay all of the thousand.’”[1810]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٦٨٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّهُ قَالَ فِي رَجُلٍ كَاتَبَ غُلَامَيْنِ عَلَى أَلْفِ دِرْهَمٍ ثُمَّ مَاتَ أَحَدُهُمَا : إِنَّهُ إِنْ كَانَ قَالَ : إِذَا أَدَّيْتُمَا الْأَلْفَ فَأَنْتُمَا حُرَّانِ وَإِلَّا فَأَنْتُمَا مَمْلُوكَانِ ، ثُمَّ مَاتَ أَحَدُهُمَا فَإِنَّهُ يَأْخُذُ الْحَيَّ بِالْأَلْفِ كُلِّهَا ، فَإِنْ كَاتَبَهُمَا عَلَى الْأَلْفِ وَلَمْ يَشْتَرِطْ فَإِنَّهُ لَا يَأْخُذُ إِلَّا بِالْحِصَّةِ : بِنِصْفِ الْأَوَّلِ ، وَبِقِيمَةِ الْبَاقِي .

683. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who writes a contract with two slaves of his to purchase their freedom for a thousand dirhams and then one of them dies, that if he had said, ‘If you both pay the thousand, you are free, but if not, you are slaves,’ and one of them dies, then the one who is still alive takes on the entire thousand. If he had written a contract with them for a thousand without stipulating, he may not take anything but the proportionate share: half of the first,[1811] and the price of the remaining one.”[1812]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ فِي جَمِيعِ الْحَدِيثِ ، إِذَا لَمْ يَشْتَرِطْ شَيْئًا فَمَاتَ أَحَدُهُمَا قُسِمَتِ الْمُكَاتَبَةُ عَلَى قِيمَتِهِمَا ، فَبَطَلَ مِنَ الْمُكَاتَبَةِ حِصَّةُ قِيمَةِ الْمَيِّتِ ، وَوَجَبَتْ عَلَى الْحَيِّ الْآخَرِ قِيمَتُهُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this in all of the hadith. If he did not stipulate anything and one of the two dies, the contract is divided between them in proportion to their prices, and the share of the price of the deceased is removed from the contract, and the other one who is still alive is obligated to pay [what is proportionate to] his price, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ الْمُكَاتَبِ يُؤْخَذُ مِنْهُ الْكَفِيلُ

218. THE SLAVE WHO WRITES A CONTRACT TO PURCHASE HIS FREEDOM FROM WHOM IS TAKEN A SURETY

٦٨٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ قَالَ فِي الْكَفَالَةِ فِي الْمُكَاتَبَةِ : لَيْسَتْ بِشَيْءٍ إِنَّمَا هُوَ مَالُكَ كَفَلَ لَكَ بِهِ ، وَكَذَلِكَ أَنَّهُ لَوْ عَجَزَ وَقَدْ أَخَذْتَ مِنَ الْكَفَالَةِ بَعْضَ مُكَاتَبَتِهِ رُدَّ الْمُكَاتَبُ فِي الرِّقِّ وَلَمْ يَكُنْ لَكَ مَا أَخَذْتَ لِأَنَّ مَا أَخَذْتَ مِنْهُمْ فَهُوَ مِلْكٌ لَهُمْ وَفِي رَقَبَةِ عَبْدِكَ

684. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us that Ibrāhīm said concerning standing surety in the contract written to purchase freedom, ‘It is nothing.[1813] It is only your own property that he has stood surety to pay you. Similarly if he is unable to pay and you take from the surety some of his contractual obligations, the slave who has written the contract is returned to slavery and you may not have what you have taken because what you have taken from them is their property and is for the slavehood of your slave.’’”[1814]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، إِذَا كَفَلَ الرَّجُلُ بِالْمُكَاتَبَةِ عَنْ مُكَاتَبِهِ فَالْكَفَالَةُ بَاطِلَةٌ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. If a man stands surety for a contract for purchasing freedom of his slave who is contracted to purchase his freedom, then the surety is not valid, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

بَابُ مِيرَاثِ الْقَاتِلِ

219. THE INHERITANCE OF A KILLER

٦٨٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : لا يَرِثُ قَاتِلٌ مَنْ
قَتَلَ خطأً أَوْ عَمَدًا ، وَلٰكِنَّه يَرِثُه أَوْلَى النَّاسِ بِه بَعْدَه .

685. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘The killer does not inherit[1815] from someone whom he has killed whether unintentionally or intentionally, but the nearest relatives after him inherit from him.’”[1816]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، لا يَرِث مَنْ قَتَلَ خطَأً أَوْ عَمَدًا من الدِّيَةِ وَلَا مِن غَيْرِهَا شَيْئًا ،
وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. The person who kills unintentionally or intentionally does not inherit any of the compensatory payment nor anything else, and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

بَابُ مَن مَاتَ وَلَمْ يَتْرُكْ وَارِثاً مُسْلِماً

220. SOMEONE WHO DIES WITHOUT LEAVING A MUSLIM HEIR

٦٨٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ عُمَرَ بْنِ الْخَطَّابِ
رَضِيَ الله عَنْه أنَّهُ قَالَ : الْمُشْرِكُونَ بَعْضُهُمْ أَوْلَى بِبَعْضٍ ، لا نَرِثُهُمْ وَلَا يَرِثُونَنَا .

686. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm from ʿUmar ibn al-Khaṭṭāb ؓ who said, ‘Those who associate partners with Allah are have more right to each other; we do not inherit from them and they do not inherit from us.’”[1817]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَالْكُفْرُ مِلَّةٌ وَاحِدَةٌ يَتَوَارَثُونَ عَلَيْهَا وَإِنْ اخْتَلَفَ أَدْيَانُهُمْ ، يَرِثُ النَّصْرَانِيُّ الْيَهُودِيَّ ، وَالْيَهُودِيُّ الْمَجُوسِيَّ ، وَلَا يَرِثُهُمُ الْمُسْلِمُونَ ، وَلَا يَرِثُونَهُمْ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. Covering over [*kufr*] is a single religion [*millah*] on the basis of which they inherit from each other even if their *dīns* differ. A Christian inherits from a Jew and a Jew from a Zoroatrian,[1818] but the Muslims do not inherit from them and they [the *kuffār*] do not inherit from them [the Muslims], and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٦٨٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي النَّصْرَانِيِّ يَمُوتُ وَلَيْسَ لَهُ وَارِثٌ قَالَ : مِيرَاثُهُ لِبَيْتِ الْمَالِ .

687. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a Christian who dies without an heir, ‘His heir is the *bayt al-māl*.’”[1819]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٦٨٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الْوَلَدِ الصَّغِيرِ يَمُوتُ وَأَحَدُ أَبَوَيْهِ كَافِرٌ وَالْآخَرُ مُسْلِمٌ : أَنَّهُ يَرِثُهُ الْمُسْلِمُ أَيُّهُمَا كَانَ .

688. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm concerning the small child who dies one of whose parents is a *kāfir*

and the other a Muslim, that whichever of them is the Muslim inherits from him.”[1820]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٦٨٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الْوَلَدِ يَكُونُ أَحَدُ
وَالِدَيْهِ مُسْلِمًا وَالْآخَرُ مُشْرِكًا قَالَ : هُوَ لِلْمُسْلِمِ مِنْهُمَا .

689. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm concerning a child one of whose parents is a Muslim and the other of whom is someone who associates partners with Allah, and he said, ‘He belongs to the Muslim of the two.’”[1821]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ عَلَى دِينِ الْمُسْلِمِ منهُمَا أَيُّهُمَا كَانَ ، فَإِنْ كَانَا كَافِرَيْنِ
جَمِيعًا أَحَدُهُمَا من أَهْلِ الْكِتَابِ فَالْوَلَدُ عَلَى دِينِ الَّذِي من أَهْلِ الْكِتَابِ منهُمَا ، تَحِلُّ لَهُ
مُنَاكَحَتُهُ ، وَأَكْلُ ذَبِيحَتِهِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this, and he is of the *dīn* of the Muslim whichever of the two that is. If they are both *kāfir* one of them being from the people of the Book, the child is of the *dīn* of the one who is from the people of the Book, his contracting marriage is permissible for him and eating the meat he sacrifices, and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٦٩٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا الْهَيْثَمُ عَنْ عَامِرٍ الشَّعْبِيِّ عَنْ
عَبْدِ اللَّهِ بْنِ مَسْعُودٍ رَضِيَ الله عَنه أَنَّهُ قَالَ : يَا مَعْشَرَ هَمْدَانَ : إِنَّه يَمُوتُ الرَّجُلُ منكُمْ
وَلَا يَتْرُكُ وَارِثًا فَلْيَضَعْ مَالَه حَيْثُ أَحَبَّ .

690. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Al-Haytham narrated to us from ʿĀmir ash-Shaʿbī that ʿAbdullāh ibn Masʿūd ؓ said, “Assembly of Hamdān, if a man among you dies without leaving an heir, then let him place his wealth wherever he wishes.”’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، إِذَا لَمْ يَدَعْ وَارِثًا فَأَوْصَى بِمَالِهِ كُلِّهِ جَازَ ذَلِكَ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. If he does not leave an heir and bequeaths all of his wealth, then that is valid, and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ الرَّجُلِ يَمُوتُ وَيَتْرُكُ امْرَأَتَهُ فَيَخْتَلِفَانِ فِي الْمَتَاعِ

221. A MAN WHO DIES LEAVING BEHIND HIS WIFE BUT THE TWO [HEIRS] DIFFER OVER THE EFFECTS

٦٩١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا مَاتَ الرَّجُلُ وَتَرَكَ امْرَأَتَهُ فَمَا كَانَ فِي الْبَيْتِ مِن مَتَاعِ النِّسَاءِ فَهُوَ لِلنِّسَاءِ ، وَمَا كَانَ فِي الْبَيْتِ مِن مَتَاعِ الرِّجَالِ فَهُوَ لِلرِّجَالِ ، وَمَا كَانَ مِن مَتَاعٍ يَكُونُ لِلرِّجَالِ وَالنِّسَاءِ فَهُوَ لَهَا لِأَنَّهَا هِيَ الْبَاقِيَةُ ، وَإِذَا مَاتَتِ الْمَرْأَةُ فَمَا كَانَ فِي الْبَيْتِ مِن مَتَاعِ الرِّجَالِ فَهُوَ لِلرَّجُلِ ، وَمَا كَانَ مِن مَتَاعِ النِّسَاءِ فَهُوَ لَهَا ، وَمَا كَانَ لَهُمَا جَمِيعًا فَهُوَ لِلرِّجَالِ لِأَنَّهُ الْبَاقِي ، وَإِذَا طَلَّقَهَا فَمَا كَانَ مِن مَتَاعِ الرِّجَالِ وَالنِّسَاءِ فَهُوَ لِلرَّجُلِ لِأَنَّهُ الْبَاقِي ، وَهِيَ الْخَارِجَةُ إِلَّا أَنْ تُقِيمَ عَلَى شَيْءٍ بَيِّنَةً فَتَأْخُذَهُ .

691. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘When a man dies leaving his wife,[1822] then whatever feminine effects[1823] are in the house are for the women, and whatever

masculine effects[1824] are in the house are for the men. Whatever effects there are which are for both men and women are hers because she is the one who remains. If the wife dies then whatever masculine effects are left in the house are for the man, and whatever feminine effects there are hers. Whatever effects there are which are for both men and women are for the men[1825] because he is the one who remains. If he divorces her, whatever effects there are which are for both men and women are for the man since he is the one who remains and she is the one who leaves unless she establishes some clear evidence in which case she takes it.'"

قَالَ مُحَمَّدٌ : وَبِهَذَا كُلِّه يأخذ أَبُو حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "Abū Ḥanīfah, may Allah, exalted is He, have mercy on him, used to adhere to all of this."

قَالَ مُحَمَّدٌ : وَلَسْنَا نَأْخُذُ بِهذَا وَلٰكِنْ مَا كَانَ مِن مَتَاعِ الرِّجالِ فَهُوَ لِلرَّجلِ وَمَا كَانَ من مَتَاعِ النِّسَاءِ فَهُوَ لِلْمَرْأَةِ ، وَمَا كَأَنَ يَكونُ لَهُمَا جَمِيعًا فَهُوَ لِلرَّجُلِ عَلَى كُلِّ حَالٍ إِنْ مَاتَ ، أَوْ طَلَّقَ ، أَوْ لَمْ يُطَلِّقْ . وقَالَ ابن أَبِي لَيْلَى : الْمَتَاعُ كُلُّهُ مَتَاعُ الرَّجُلِ مَا كَانَ يَكُونُ لِلرِّجَالِ وَالنِّسَاءِ وَغَيْرُ ذَلِكَ إِلاَّ لِبَاسُهَا . وقَالَ غَيْرُهِ من الْفُقَهَاءِ : مَا كَانَ يَكُونُ لِلرَّجُلِ فَهُوَ لِلرَّجُلِ ، وَمَا يَكُونُ لِلنِّسَاءِ فَهُوَ لِلْمَرْأَةِ وَمَا كَانَ يَكُونُ لَهُمَا جَمِيعًا فَهُوَ بَيْنَهُمَا نِصْفَانِ . وَقَدْ قَالَ ذَلِكَ زُفَرُ ، وَقَدْ يُرْوَي عَنْ إِبْرَاهِيمَ النَّخَعِيِّ ، وقَالَ بَعْضُ الْفُقَهَاءِ أَيْضًا : جَمِيعُ مَا فِي الْبَيْتِ من مَتَاعِ الرِّجَالِ وَالنِّسَاءِ وَغَيْرُ ذَلِك بَيْنَهُمَا نِصْفَيْنِ . وَقَالَ بَعْضُ الْفُقَهَاءِ أَيْضًا : الْبَيْتُ بَيْتُ الْمَرْأَةِ، فَمَا كَانَ من مَتَاعِ الرِّجَالِ وَالنِّسَاءِ فَهُوَ لِلْمَرْأَةِ ، وَقَالَ بَعْضُ الْفُقَهَاءِ أَيْضًا : تُعْطَى الْمَرْأَةُ من مَتَاعِ النِّسَاءِ مَا يُجْهَزُ بِهِ مِثْلُهَا ، وَجَمِيعُ مَا بَقِيَ فِي الْبَيْتِ فَهُوَ كُلُّهُ لِلرَّجُلِ إِنْ مَاتَ أَوْ مَاتَتْ .

Muḥammad said, "We do not adhere to this, but whatever masculine effects there are belong to the man and whatever feminine effects there are belong to the wife, and what was jointly owned by them is the man’s in every case[1826] if he dies or divorces or does not divorce. Ibn Abī Laylā said, ‘All of the effects are the man’s, what was for both men and women and other things except for her clothing.’ Other *fuqahā’* said,[1827] ‘Whatever was the man’s is his, and whatever is women’s is for the wife, and whatever used to belong to both of them is divided between them in two halves.’ Zufar said that, and it has been narrated from Ibrāhīm an-Nakhaʿī. One of the *fuqahā’*[1828] also said, ‘Everything in the house, men’s effects, women’s effects and other things are divided in two halves between them.’ One of the *fuqahā’*[1829] also said, ‘The house is the woman’s house, both the men’s and women’s effects belong to the wife.’ One of the *fuqahā’* also said, ‘The wife is given whatever of the feminine effects which the like of her should be provided with and everything else which remains in the house is the man’s whether it is he who dies or she who dies.’”

◆

بَابُ مِيرَاثِ الْمَوَالِي

222. INHERITANCE OF FREED SLAVES [*MAWLĀS*]

٦٩٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ : أَنَّ عَلِيَّ بْنَ أَبِي طَالِبٍ وَالزُّبَيْرَ بْنَ الْعَوَامِ رَضِيَ اللهُ عَنْهُمَا اخْتَصَمَا إِلَى عُمَرَ بْنِ الْخَطَّابِ رَضِيَ اللهُ عَنْهُ فِي مَوْلَى لِصَفِيَّةَ بِنْتِ عَبْدِ الْمُطَّلِبِ رَضِيَ اللهُ عَنْهَا مَاتَ ، فَقَالَ الزُّبَيْرُ : أُمِّي وَأَنَا أَرِثُهَا ، وَأَرِثُ مَوَالِيَهَا ، وَقَالَ عَلِيٌّ رَضِيَ اللهُ عَنْهُ : عَمَّتِي وَأَنَا أَعْقِلُ عَنْهَا ، فَجَعَلَ عُمَرُ رَضِيَ اللهُ عَنْهُ الْمِيرَاثَ لِلزُّبَيْرِ رَضِيَ اللهُ عَنْهُ ، وَجَعَلَ الْعَقْلَ عَلَى عَلِيِّ بْنِ أَبِي طَالِبٍ رَضِيَ اللهُ عَنْهُ .

692. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿAlī ibn Abī Ṭālib and az-Zubayr ibn al-ʿAwwām ؓ took a dispute that they had to ʿUmar ibn al-Khaṭṭāb ؓ concerning a *mawlā* of

Ṣafiyyah bint ʿAbd al-Muṭṭalib ﵂ who had died.[1830] Az-Zubayr said, ‘She is my mother[1831] and I inherit her and inherit from her *mawlās*.’ ʿAlī ﵁ said, ‘She [Ṣafiyyah] is my paternal aunt and I would pay compensatory payments for killing and injuries[1832] on her behalf.’ ʿUmar ﵁ made az-Zubayr ﵁ inherit, and he appointed the compensatory payment for ʿAlī ﵁ .”

قَالَ مُحَمَّدٌ : وَبِهَذَا نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٦٩٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : الْوَلاءُ لِلْبَنِينَ الذُّكُورِ دُونَ الإِنَاثِ ، فَإِذَا دَرَجُوا وَذَهَبُوا رَجَعَ الْوَلاءُ إِلَى الْعَصَبَةِ .

693. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘The *walā’* is for the male children but not the females.[1833] Then if they pass away and are gone, the *walā’* returns to the paternal male relatives.”

قَالَ مُحَمَّدٌ : وَبِهَذَا نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٦٩٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا مُحَمَّدُ بْنُ قَيْسٍ الْهَمْدَانِيُّ قَالَ : أَقْبَلَ رَجُلٌ من أَهْلِ الذِّمَّةِ فَأَسْلَمَ عَلَى يَدَيِ ابْنِ عَمِّ مَسْرُوقٍ وَتَوَلَّاهُ ، فَمَاتَ وَتَرَكَ مَالاً ، فَانْطَلَقَ مَسْرُوقٌ ، فَسَأَلَ عَبْدَ اللَّهِ بْنَ مَسْعُودٍ رَضِيَ الله عَنْهُ عَنْ مِيرَاثِهِ ، فَأَمَرَهُ بِأَكْلِهِ .

694. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Muḥammad ibn Qays al-Hamdānī narrated to us saying, “A man from the people of the Book living under Muslim governance came and accepted Islam at the

hands of the son of the paternal uncle of Masrūq and took him as an ally [*mawlā*].[1834] Then he died and left property. Masrūq went and asked ʿAbdullāh ibn Masʿūd ؓ about his inheritance and he told him to avail [lit: eat] of it.”’”[1835]

٦٩٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا تَوَلَّاكَ الرَّجُلُ مِن أَهْلِ الذِّمَّةِ فَعَلَيْكَ عَقْلُه وَلَكَ مِيرَاثُه ، وَلَه أَنْ يَتَحَوَّلَ بِوِلَايَتِه مَا لَمْ يُعْقَلْ عَنْهُ ، فَإِذَا عَقَلْتَ عَنْهُ فَلَيْسَ لَهُ أَنْ يَتَحَوَّلَ بِوَلَائِه .

695. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man of the people of the Book living under Muslim governance takes you as an ally [*mawlā*], you are responsible for paying his compensatory payments for killing or injury and you are due his inheritance. He[1836] is allowed to alter his alliance[1837] as long as he[1838] has not paid compensatory payments on his[1839] behalf. If you pay compensatory payments on his behalf he has no right to alter his alliance [*wilāh*].’”

قَالَ مُحَمَّدٌ : وَبِهَذَا كُلِّه نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to all of this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ مِيرَاثِ الْمُتَلَاعِنَيْنِ وَابْنِ الْمُتَلَاعِنَةِ

223. THE INHERITANCE OF A COUPLE WHO HAVE ENGAGED IN *LIʿĀN* AND THE SON OF THE WIFE[1840]

٦٩٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا قَذَفَ الرَّجُلُ امْرَأَتَه فَالْتَعَنَ أَحَدُهُمَا تَوَارَثَا مَا لَمْ يَلْتَعِنِ الآخَرُ .

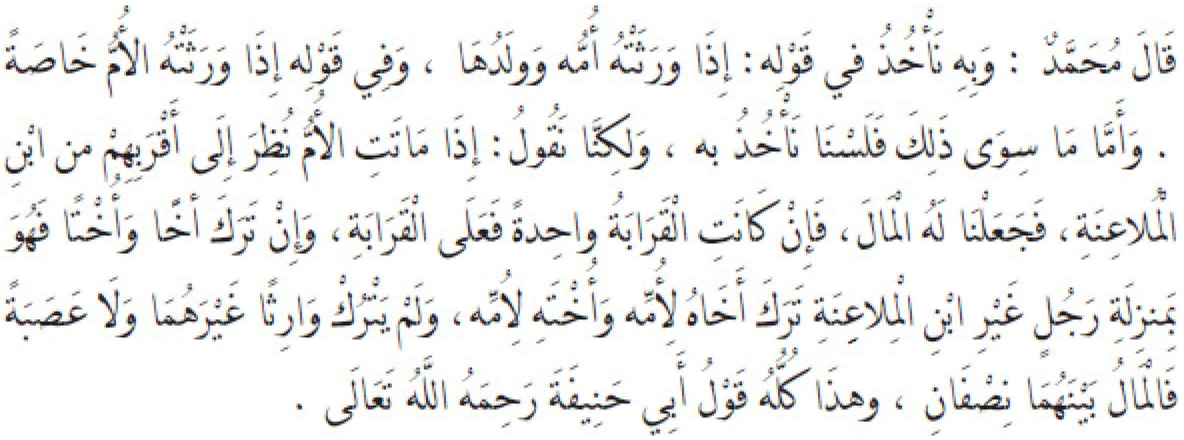
696. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man accuses his wife of adultery and one of the two places a curse on himself or herself [if he or she is a liar], they inherit from each other as long as the other has not placed a curse[1841] on himself or herself [if he or she is a liar].’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، يَتَوَارَثَانِ مَا لَمْ يَتَلَاعَنَا جَمِيعًا ، وَيُفَرِّقُ السُّلْطَانُ بَيْنَهُمَا ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. They inherit from each other as long as they have not both engaged in laying a curse on themselves if they are liars and the sultan has not separated them, and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

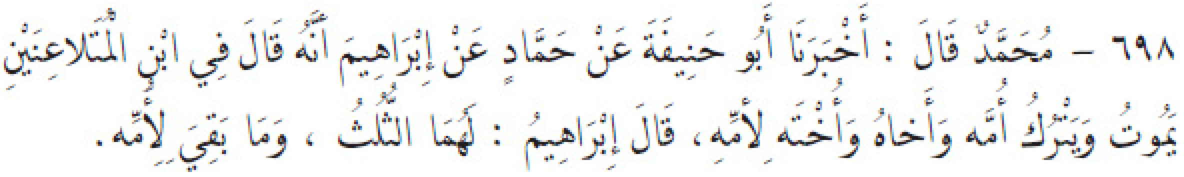
٦٩٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّهُ قَالَ فِي مِيرَاثِ ابْنِ الْمُلَاعِنَةِ : إِذَا كَانَتِ الْأُمُّ وَوَلَدُهَا وَرَثَتُهُ فَعَلَى الْمِيرَاثِ ، وَإِنْ كَانَتِ الْأُمُّ وَحْدَهَا فَلَهَا الْمِيرَاثُ كُلُّهُ ، وَإِنْ مَاتَتْ أُمُّه ، ثُمَّ مَاتَ بَعْدَ ذَلِكَ فَاجْعَلْ ذَوِي قَرَابَتِهِ مِن أُمِّه كَأَنَّهُمْ وَارِثُو أُمِّه ، كَأَنَّهَا هِيَ الَّتِي مَاتَتْ ، إِنْ كَانَ أَخًا فَلَهُ الْمَالُ كُلُّهُ ، وَإِنْ كَانَتْ أُخْتًا فَلَهَا النِّصْفُ ، وَإِنْ كَانَ أَخًا وَأُخْتًا فَالثُّلُثَانِ لِلْأَخِ ، وَلِلْأُخْتِ الثُّلُثُ ، وَإِنْ كَانَتْ أُخْتَيْنِ فَلَهُمَا الثُّلُثَانِ .

697. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning the inheritance of a son born in the circumstances of the parents having engaged in *li ʿān*, ‘If [the child dies and] there is the mother[1842] and her [other] son,[1843] she inherits two-thirds of the inheritance. But if there is only the mother, she inherits the entire inheritance. If the mother dies and he [the child] dies after that, regard the near relatives of the mother as if they were the heirs of his mother and as if it were she who had died. If there is a brother, he takes the entire wealth, but if there is a sister, she takes half. If there are both a brother and a sister, there is two-thirds for the brother and a third for the sister. If there are two sisters, they have two-thirds.’”[1844]



قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ فِي قَوْلِهِ : إِذَا وَرِثَتْهُ أُمُّهُ وَوَلَدُهَا ، وَفِي قَوْلِهِ إِذَا وَرِثَتْهُ الأُمُّ خَاصَّةً
. وَأَمَّا مَا سِوَى ذَلِكَ فَلَسْنَا نَأْخُذُ بِهِ ، وَلَكِنَّا نَقُولُ : إِذَا مَاتَتِ الأُمُّ نُظِرَ إِلَى أَقْرَبِهِمْ مِنَ ابْنِ
الْمُلَاعِنَةِ ، فَجَعَلْنَا لَهُ الْمَالَ ، فَإِنْ كَانَتِ الْقَرَابَةُ وَاحِدَةً فَعَلَى الْقَرَابَةِ ، وَإِنْ تَرَكَ أَخًا وَأُخْتًا فَهُوَ
بِمَنْزِلَةِ رَجُلٍ غَيْرِ ابْنِ الْمُلَاعِنَةِ تَرَكَ أَخَاهُ لِأُمِّهِ وَأُخْتَهُ لِأُمِّهِ ، وَلَمْ يَتْرُكْ وَارِثًا غَيْرَهُمَا وَلَا عَصَبَةً
فَالْمَالُ بَيْنَهُمَا نِصْفَانِ ، وَهَذَا كُلُّهُ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this with respect to his verdict when the mother [of the child of *liʿān*] and her [other] child inherit him and his verdict when the mother alone inherits him. As for anything else, we do not adhere to it, but we give the verdict that if the mother dies, one investigates who is the closest relative to the child born from the couple who engaged in *liʿān*, and give him the property. If there is only one near relative through the mother, we give him the property, but if he leaves a brother and a sister, he [the deceased] is in the same position as someone who is not the child of a couple who have engaged in *liʿān* who leaves a brother of his through his mother and a sister through his mother leaving no other heir nor male relatives from his father, in which case the wealth is divided in two halves between them, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”



٦٩٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّهُ قَالَ فِي ابْنِ الْمُتَلَاعِنَيْنِ
يَمُوتُ وَيَتْرُكُ أُمَّهُ وَأَخَاهُ وَأُخْتَهُ لِأُمِّهِ ، قَالَ إِبْرَاهِيمُ : لَهُمَا الثُّلُثُ ، وَمَا بَقِيَ لِأُمِّهِ .

698. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning the child born of a couple who have engaged in *liʿān* who dies leaving his mother and his brother and sister from his mother. Ibrāhīm said, ‘The two of them have a third and whatever is left over is for his mother.’”[1845]

قَالَ مُحَمَّدٌ : وَلَسْنَا نَأْخُذُ بِهذَا ، وَلكِنْ لَهُمَا الثُّلُثُ ، وَلِلأُمِّ السُّدُسُ ، وَمَا بَقِيَ فَهُوَ رَدٌّ عَلَى ثَلاثَةِ أَسْهُم عَلَى قَدْرِ مَوَارِيثِهِمْ ، وَهَذَا قِيَاسُ قَوْلِ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ رَضِيَ الله عَنْه لِأَنَّه كَانَ لا يَرُدُّ عَلَى الإِخْوَةِ من الأُمِّ مَعَ الأُمِّ ، وَكَانَ عَلِيٌّ رَضِيَ الله عَنْه يَرُدُّ عَلَيْهِم عَلَى مَوَارِيثِهِمْ ، فَبِقَوْلِ عليٍّ بن أَبِي طَالِبٍ نَأْخُذُ .

Muḥammad said, “We do not adhere to this, but the two of them have a third, the mother takes a sixth, and whatever is left over is divided up into three portions proportionately to their inheritances. This[1846] is the deduction analogous to the verdict of ʿAbdullāh ibn Masʿūd ﵁ because he would not return anything [left over after the division of the inheritances] to siblings along with the mother. But ʿAlī ﵁ would return it to them proportionately to their inheritances, and we adhere to the verdict of ʿAlī ibn Abī Ṭālib.”

٦٩٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ قَالَ : الأُمُّ عَصَبَةُ مَن لا عَصَبَةَ لَهُ.

699. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us that Ibrāhīm said, “The mother is [in place of] the paternal male relatives [ʿ*aṣabah*][1847] of someone who has no paternal male relatives.”’”[1848]

image

Muḥammad said, “As for our verdict, if he leaves his mother not leaving anyone other than her of those who inherit a share, the property is hers. If he does not have a living mother, nor one who receives a share, the property goes to the relative closest to the child of the couple who engaged in *liʿān*, and in this case one does not consider those who would have inherited from his mother, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

image

700. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘The ʿ*aṣabah* of the child born to a couple who have engaged in *liʿān* are his mother’s ʿ*aṣabah*.[1849] If he only leaves his mother, the property is hers.’”[1850]

Muḥammad said, “She will have the property if he leaves no heir other than her. The explanation of his verdict, ‘His paternal male relatives are his mother’s paternal male relatives,’ concerns the male relatives who would pay the compensatory payments for killings and injuries. They are the ones who would pay compensatory payments for him. As for inheritance, his closest relatives according to their degree of close relationship to the [couple who engaged in] *liʿān* inherit from him. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

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224. PROPERTY WHOSE USE IS GRANTED TO SOMEONE FOR LIFE [ʿ*UMRĀ*][1851]

701. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Whoever grants the use of a property for someone’s life, it is his during his life and his heirs’ after him, and it is not a part of his third.’”

Muḥammad said, “He meant that it is not a part of the third [which may be bequeathed] by the former person who granted the use of the property.”

702. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Bilāl narrated to us from Wahb ibn Kaysān from Jābir ibn ʿAbdullāh رضي الله عنه from the Prophet ﷺ and he [Jābir] said, “The granting of properties for life spread widely in Madīnah and so the Prophet ﷺ ascended the *minbar* and said, ‘People, retain your properties and do not bring them to nothing, because whoever

grants the use of something for someone else’s lifetime, it belongs to the person who is granted it after his [the original owner’s] death.’”’”[1852]

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٠٣ - مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَبِيبُ بْنُ أَبِي ثَابِتٍ عَنْ عبدِ اللَّهِ بنِ عُمَرَ رَضِيَ الله عَنْهُمَا قَالَ كُنْتُ عِنْدَه قَاعِدًا إِذْ جَاءَه أَعْرابِيٌّ ، فَسَأَلَه عَنِ الْعُمْرَى ، فَأَخْبَرَه إِنَّها مِيرَاثٌ لِلَّذي هِيَ فِي يَدَيْه .

703. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥabīb ibn Abī Thābit narrated to us from ʿAbdullāh ibn ʿUmar and he [Ḥabīb] said, “I was sitting with him [ʿAbdullāh ibn ʿUmar] when a desert Arab came and asked him about granting properties for life [ʿ*umrā*] and he told him that it was an inheritance for the one in whose possession it was.”’”[1853]

◆

225. THE INHERITANCE OF A CHILD CARRIED BY A WOMAN [*ḤAMĪL*][1854] AND THE CHILD WHOSE PATERNITY TWO MEN CLAIM

704. Muḥammad said, “Abū Ḥanīfah informed us from al-Mujālid ibn Saʿīd that ʿĀmir ash-Shaʿbī said, ‘ʿUmar ibn al-Khaṭṭāb wrote, “A child carried by a woman [who claims she is his mother] is not inherited unless clear proof is established,”’ and we adhere to this.”[1855]

Muḥammad said, “The case is that of a woman who is captured and along with her there is an infant whom she is carrying about whom she says, ‘He is my son.’ He is not her son by her simple word unless she has clear proof.

What is acceptable concerning her having given birth [to him] is the testimony of a free Muslim woman.”

705. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning two men both of whom claim [paternity of] a child, ‘He is the child of both of them and inherits from both of them and they inherit from him.’”

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

226. WHO HAS MORE RIGHT TO A CHILD AND WHO IS TO BE COMPELLED TO SPEND ON MAINTENANCE

706. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘A child is its mother’s until it is in no need [of her].’ And Ibrāhīm said, ‘When an infant boy is in no need of his mother for eating and drinking the father has more right to him.’”[1856]

Muḥammad said, “We adhere to this. As for a male [child], she has more right to him until he eats by himself and dresses by himself, and then his father has more right to him. As for a female child, her mother has more right to her up until she menstruates, and then her father has more right to her, and neither of them have any choice in that.[1857] If the mother remarries she has no right to the child, and the grandmother (the mother’s mother) stands in her place.[1858] If the grandmother has a husband and he is the grandfather then the child does not become forbidden [to the custody of the grandmother] because of the position of her husband, but if she has a husband who is someone other than the grandfather [of the child] then she has no right to the child. The grandmother (mother of the father) has more right than her if she has no husband. If she has a husband and he is the grandfather the child also does not become forbidden [to the custody of the grandmother] because of the position of her husband. If her husband is not the grandfather then she has no right to the child. All of this is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

707. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Each close relation is compelled[1859] to pay maintenance.’”[1860]

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

227. A WIFE’S GIFT TO HER HUSBAND A HUSBAND’S TO HIS WIFE

708. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Husband and wife have the status of close relatives; whichever of them gives a gift to the other may not retract it.’”[1861]

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

[1766] In the accusative case as an encouragement [to give a third] or in the sense of “give [a third]!” or it is in the nominative case in the sense of “[a third] is enough for you.”

[1767] *yatakaffafūn* meaning begging for *ṣadaqah* with their hands (*kaff*) and stretching out their hands to beg.

[1768] Al-Bukhārī under "testaments" in the chapter "that one leave one's heirs without need is better," and under "the fixed shares of inheritance" in the chapter on "the inheritance of daughters" and in the chapter on "bequeathing a third."

[1769] And if they are adults because it is their right to refuse and they may drop [their right of refusal]. One does not take into account their giving permission while [the person bequeathing is] still alive because it is before the due becomes firmly established which is upon the death [of the person bequeathing] and they have the right [to repudiate their agreement to it] after his death.

[1770] Contrary to the case after his death since after the establishment of their due [and their renunciation of it] they are not able to change their minds.

[1771] Meaning that the repudiation is their denial of their permitting the bequest and thus the bequest is not valid.

[1772] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.6, p.210.

[1773] Because it happens before the establishment of the due.

[1774] Meaning if the heirs permit it.

[1775] Then if anything is left over it is for the people who are to receive bequests. Moreover, the act of freeing the slave is only given precedence over the other bequests if it was executed during [the last] illness or connected to the death, for example, if he says, "If anything happens to me because of this illness then he is free." As for if he bequeaths that his slave should be freed after his death, then one does not begin with freeing the slave, but on the contrary he is equal to the others who are to receive bequests (*al-Bināyah*).

[1776] Except for the act of freeing a slave which is executed in the final illness because it is begun with before every other bequest, and then the people due bequests contend after that. The act of setting free which takes effect is the one which has been executed not one which is delegated to the act of those receiving bequests setting him free such as for example if he says, "Free him!" or bequeaths that he should be free after his death (*an-Nihāyah*).

[1777] Meaning during his last illness.

[1778] This is based on the well-known difference of opinion between Abū Ḥanīfah and his two companions, which is that if a master frees a part of his slave, that amount of him is set free and he works to free the remainder of his price to his master according to Abū Ḥanīfah. But the two of them said that all of him is free.

[1779] For example the debt is sixty dirhams and the price of the slave is ninety dirham, then the slave is set to work for sixty dirhams for the creditors and twenty dirhams for the heirs, because he must work for two-thirds of what is due to the heirs and thirty dirhams is what remains, two thirds of which is twenty.

[1780] Meaning, those things which are rights due to Allah such as prayer, fasting etc., and if he has left no bequest about that, it is not to be taken from what he has left unless the heirs donate it.

[1781] Abū Yūsuf narrated it on p.173.

[1782] In that he says in his final illness, “My slave is free.” [The point being that if he had not been in his final sickness he could dispose of his entire property as he wished. – Trans.]

[1783] For example, if a man says to his slave, “You are free after I die.”

[1784] Abū Yūsuf narrated it on p.172.

[1785] Because it has the same judgement as a fatal illness.

[1786] The ascription of ownership to the slave is not as ownership but taking into account what is in his hands.

[1787] *nasmah* is a spirit (*rūḥ*) meaning a being possessing a spirit.

[1788] Abū Hurayrah narrated it as a *marfūʿ* hadith in the collection of al-Bukhārī under “expiations of oaths” in the chapter “on the saying of Allah, exalted is He, ‘*or free a slave*’” (Sūrat al-Mā’idah:89), and Muslim under “freeing slaves” in the chapter on “the merit of freeing slaves.”

[1789] Meaning: under the same ruling as the mother, since the children of a slave to be set free on his master’s death are also set free.

[1790] Abū Yūsuf narrated it on p.192.

[1791] Abū Yūsuf narrated it on p.192.

[1792] Abū Yūsuf narrated it on p.192.

[1793] Meaning that it is valid for him to have sexual intercourse with her, to employ her as a servant, hire her out and marry her off.

[1794] *siqṭ* is the incompletely formed miscarried foetus.

[1795] Abū Yūsuf narrated it on p.128.

[1796] Meaning if they were in ample circumstances.

[1797] Meaning that they could take on the responsibility to their partner for their share, and if they did so the one who set free would return to the slave, and the *walā’* is for the one who sets free. If the one who sets free is in tight circumstances, then they have the choice if they wish to set free and if they wish they set the slave to work. This case is based on two principles, the first of which is that the act of setting free can be divided into parts according to him [Abū Ḥanīfah] but not according to the two of them [Muḥammad and Abū Yūsuf], and second, if the person who sets free is in easy circumstances then in his view [Abū Ḥanīfah] it is not prohibited to set the slave to work but it is in the view of the two of them [Muḥammad and Abū Yūsuf].

[1798] Abū Yūsuf narrated it on p.165.

[1799] *walā’* confers on the one who sets the slave free the right to inherit from the slave, for example. – Trans.

[1800] Abū Yūsuf narrated it on p.164.

[1801] His relationship to a part of him is the same as his relationship to the whole, and so for this reason all of him is set free.

[1802] Abū Yūsuf narrated it on p.191.

[1803] Abū Yūsuf narrated it on p.190.

[1804] Abū Yūsuf narrated it on p.190.

[1805] And Abū Dāwūd narrated from ʿAmr ibn Shuʿayb from his father from his grandfather that the Prophet said, “The *mukātab* (slave who has written a contract to purchase his freedom) is a slave as long as there remains one dirham of his contract unpaid.”

[1806] Abū Yūsuf narrated it on p.190.

[1807] Meaning that if the *mukātab* slave dies leaving wealth, then the contract to purchase his freedom is not cancelled and what he still owes is paid from his wealth and the judgement is that he was set free in the very last portion of his life.

[1808] What is left over from his wealth after paying the remains of the contract. Ash-Shāfiʿī said that the contract is invalidated and he dies as a slave and whatever property he leaves is his master’s.

[1809] Abū Yūsuf narrated it on p.190.

[1810] Abū Yūsuf narrated it on p.191.

[1811] Meaning of the slave who died.

[1812] The slave who is still alive.

[1813] It is not valid from the wealth of the *mukātib* whether a free man undertakes it or a slave.

[1814] Abū Yūsuf narrated it on p.196.

[1815] Meaning that if an heir kills someone from whom he inherits then the killer is forbidden his share of the inheritance, and it is the killing which according to us has necessarily attached to it retaliation, just as with intentional killing, or expiation as is the case with quasi-intentional or mistaken killing.

[1816] Abū Yūsuf narrated it on p.161.

[1817] Abū Yūsuf narrated it on p.171.

[1818] The Mājūs are the Zoroastrians. Apart from keeping alive the eternal flame and thus being “fire-worshippers” they were also dualists who considered that the cosmos is governed by two forces, good and evil, in constant conflict. – Trans.

[1819] See the *Muṣannaf* of Ibn Abī Shaybah, vol.6, p.288.

[1820] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.6, p.288.

[1821] See the traditions on that in the *Muṣannaf* of Ibn Abī Shaybah, vol.6, p.288.

[1822] Meaning if the two of them differ about the household goods.

[1823] Such as the large outer wrapper called *khimār*, the shift and the like.

[1824] Such as a turban, tunic and weapons.

[1825] *rijāl*: men, is possibly a mistake for *rajul*: man. – Trans.

[1826] Unless the other establishes a clear proof that it is his.

[1827] Ibn Ḥazm ascribed it to Sufyān ath-Thawrī, Sharīk ibn ʿAbdullāh al-Qāḍī, ash-Shāfiʿī, Abū Sulaymān and it is also one of the two verdicts of Zufar, and the verdict of aṭ-Ṭaḥāwī.

[1828] And it is the verdict of az-Zuhrī.

[1829] And it is the verdict of Abū Yūsuf image. The Imam al-Aʿẓam image only chose the verdict of Ibrāhīm an-Nakhaʿī because it is supported by analogical deduction since clear proof is required of the claimant and the oath is the right of the one who repudiates, and the person against whom the claim is made is the one who outward appearances testify in support of, so we regard the man as being weightier in that which pertains to him and we regard his word as being definitive when accompanied by his oath, and the woman in that which pertains to her and regard her word as being definitive when accompanied by her oath. As to that which pertains to both of them, we regard the word as being that of the one surviving of the two since that one is the person with actual control because control belongs to the living and not the dead. The person with actual control is the one against whom the claim is made and we regard his word as being weightier when accompanied by his oath, and the heirs of the deceased must bring clear evidence. If it is divorce and not death, then the decisive word is that of the man in that which pertains to both of them because the wife and what she owns are under the authority of the husband, and the decisive word belongs to the person with control and authority, contrary to the situation with respect to what pertains particularly to her, because an outwardly clear matter which is stronger than it contradicts it.

[1830] It appears from the text that the *mawlā* had been killed and that compensatory payment was paid for his death. – Trans.

[1831] Meaning, "Ṣafiyyah is my mother."

[1832] Meaning, "I have more right to it," and the *walā’* is of two types: the *walā’* of emancipation whose cause is the act of his setting free from his ownership, and the *walā’* of alliance which is a contract, and the meaning of both is mutual assistance. The Arabs used to assist each other in various ways and the Prophet image confirmed both types of mutual assistance through *walā’*.

[1833] People only have *walā’* from those whom they have set free or from someone set free by someone whom they had set free [meaning the one who was set free by the slave whom they had set free – a second order freed slave. – Ed.]

[1834] This is the *walā’* of the contract of alliance whose form is that someone whose lineage is unknown should say to the one at whose hands he has accepted Islam or to someone else, “I make the contract of *walā’* with you on the basis that if I die my inheritance goes to you, and if I commit a corporal or capital crime my compensatory payment is due from you and from your *ʿāqilah*” and the other accepts that from him. The one who accepts is his *mawlā* who inherits him if he dies and who pays his compensatory payment if he commits a corporal or capital crime.

[1835] Abū Yūsuf narrated it on p.170.

[1836] The lesser *mawlā* [since both parties to a *walā’* contract of alliance are called the *mawlā*. – Trans.].

[1837] Move it [to another person].

[1838] The major *mawlā*.

[1839] On behalf of the lesser *mawlā*. This transference is possible because it is not a legally binding contract [until payment of compensatory payment] of the same status as a bequest. Similarly, the major *mawlā* can be quit of the alliance because it is not binding unless it has been stipulated that it ought to be done in the presence of the other.

[1840] *mulāʿinah* is the woman between whom and her husband the *liʿān* has occurred. It has also been said that it is *mulāʿanah*.

[1841] Because if one of the two begins the process of *liʿān* the *liʿān* is not complete as long as the other does not engage in it.

[1842] Meaning that if the child of the woman in the case of *liʿān* dies leaving his mother and his brother, then his mother receives a third and his brother a sixth, and what remains is divided between them in proportion to what they inherit, for which reason his mother inherits two thirds of the inheritance, one third as her obligatory share and one third by adjustment.

[1843] Her son inherits a third: one sixth as an obligatory inheritance and one sixth by adjustment [of the remaining portion].

[1844] See the *Muṣannaf* of Ibn Abī Shaybah, vol.6, pp.275-7.

[1845] See some of the traditions on that in the *Muṣannaf* of Ibn Abī Shaybah, vol.6, p.277.

[1846] Meaning the verdict of Ibrāhīm that they both have a third and what remains is for his mother is deduced analogically from the verdict of ʿAbdullāh ibn Masʿūd because he said that if there is a brother he gets a third, and that if there are two whether or not a brother or sister (because they are equal), meaning that the two of them take a third and whatever remains is the mother’s because she is the ʿ*aṣabah*.

[1847] As is in the narration of al-Bayhaqī from Ibn ʿAbbās who said, “Some people came to ʿAlī and argued over the child of a couple who had engaged in *liʿān*, and then the child of his father came for whom they were seeking his inheritance.” He said, “And he made his inheritance for his mother and made her the ʿ*aṣabah* not meaning the literal ʿ*aṣabah* but interpreting it metaphorically, meaning that he did not give the son of his father anything because of the interruption of the ascription to his father and gave the inheritance to the mother entirely because he had died without a son nor any brother from his mother. So the mother received a third of his inheritance as her fixed share of the inheritance and the rest by adjustment, so that she became as if she were the ʿ*aṣabah*. So he made the mother and her people the ʿ*aṣabah* contrary to the principles of the fixed shares of inheritance.

[ʿ*Aṣabah* are the male relatives through the father who do not receive fixed shares of the inheritance [*farā’iḍ*] but receive in certain cases where there are none to receive fixed shares or where there is a surplus left over after the distribution of the fixed shares. It also denotes the heirs of someone who leaves neither parents nor children, and thus in some cases the wife and other parties. – Trans.]

[1848] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.6, p.255 from Ibrāhīm from ʿAlqamah from Ibn Masʿūd.

[1849] Meaning in having a right to it in the sense of being ʿ*aṣabah* that is maternal kinship not in establishment of literal ʿ*aṣabah* [being male relatives through the father].

[1850] Abū Yūsuf narrated it on p.168.

[1851] This is that someone says to his fellow, “I give you my house as an ʿ*umrā*,” meaning “I appoint it for you for the duration of your life.” Thus, when this is said and it is connected to taking possession, it is giving the ownership of it itself and thus the Messenger of Allah called it “gift” when he said, “It belongs to whomever it was given as a gift,” and if it becomes a gift it is his during his life and his heirs after him. Mālik said that it is a granting of the possession of a certain benefit during his life but not ownership of it itself and when he dies its ownership returns to the one who granted it as an ʿ*umrā*.

[1852] Abū Yūsuf narrated it on p.67.

[1853] Abū Yūsuf narrated it on p.167.

[1854] *ḥamīl*: the ascription of a relationship to someone else in that a woman says, “This child is my husband’s son,” or a man says to another, “This is my brother.” This person thus affirmed inherits with respect to the person who affirms him but not from others who repudiate unless he produces clear evidence in which case he inherits in all respects.

[1855] See the traditions in the *Muṣannaf* by Ibn Abī Shaybah, vol.6, pp.280-1.

[1856] Abū Yūsuf narrated it on pp.158-9.

[1857] Ash-Shāfiʿī image said that they both have the choice.

[1858] Those apart from the mother and grandmother have more right to the girl child until she reaches the age of desire, and in *al-Jāmiʿ aṣ-ṣaghīr* there is that it is until she can manage.

[1859] Because of the words of Allah, exalted is He, "*The same duty is incumbent on the heir*" (Sūrat al-Baqarah: 231). In the recitation of Ibn Masʿūd image there is, "*The same duty is incumbent on the heir who is unmarriageable (maḥram) close kin*." Maintenance is obligatory according to the scale of the inheritance and he is compelled to pay it.

[1860] Abū Yūsuf narrated it on p.159.

[1861] Ibn Abī Shaybah narrated the like of it from ʿUmar ibn ʿAbd al-ʿAzīz so see the *Muṣannaf*, vol.4, p.336.

OATHS AND VOWS

بَابُ الأَيْمَانِ وَالْكَفَّارَاتِ فِيهَا

228. OATHS[1862] AND THEIR EXPIATIONS

٧٠٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : أُقْسِمُ ، وَأُقْسِمُ بِاللَّهِ ، وَأَشْهَدُ ، وَأَشْهَدُ بِاللَّهِ ، وَأَحْلِفُ ، وَأَحْلِفُ بِاللَّهِ ، وَعَلَيَّ عَهْدُ اللَّهِ ، وَعَلَيَّ ذِمَّةُ اللَّهِ ، وَعَلَيَّ نَذْرٌ ، وَعَلَيَّ نَذْرُ اللَّهِ ، وَهُوَ يَهُودِيٌّ ، وَهُوَ نَصْرَانِيٌّ ، وَهُوَ مَجُوسِيٌّ ، وَهُوَ بَرِيءٌ من الإِسْلامِ ؛ كُلُّ هَذَا يَمِينٌ يُكَفِّرُهَا إِذَا حَنَثَ .

709. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘”I swear (*uqsim*),” “I swear by Allah,” “I witness,”[1863] “I witness by Allah,” “I swear (*aḥlif*),” “I swear by Allah,” “Allah’s contract (*ʿahd*)[1864] is binding on me,” “Allah’s covenant (*dhimmah*) is binding on me,” “the vow (*nadhr*) is binding on me,”[1865] “the vow to Allah is binding on me,” “he is a Jew,”[1866] “he is a Christian,” “he is a Zoroastrian,” and “he is quit of Islam,” all of these are oaths which are to be expiated when they are retracted.’”[1867]

قَالَ مُحَمَّدٌ : وَبِهَذَا كُلِّهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to all of this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧١٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي كَفَّارَةِ الْيَمِينِ : إِطْعَامُ عَشَرَةِ مَسَاكِينَ لِكُلِّ مِسْكِينٍ نِصْفُ صَاعٍ مِن بُرٍّ ، أَوِ الْكِسْوَةُ (وَهُوَ ثَوْبٌ) ، أَوْ تَحْرِيرُ رَقَبَةٍ ، فَمَن لَّمْ يَجِدْ فَصِيَامُ ثَلَاثَةِ أَيَّامٍ .

710. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm concerning the expiation of an oath [that it is], ‘To feed ten destitute people feeding each with half a *ṣāʿ* of wheat, or to clothe (with a robe) or to free a slave, and whoever does not have [any of the above] should fast three days.’”[1868]

قَالَ مُحَمَّدٌ : وَبِهَذَا كله نَأْخُذُ ، وَالأَيَّامُ الثَّلَاثَةُ مُتَتَابِعَاتٌ لا يُجْزِئه أَنْ يُفَرِّق بينهُنَّ لأَنَّها فِي قِرَاءَةِ ابْنِ مَسْعُودٍ رَضِيَ الله عَنْه : ﴿فَصِيَامُ ثَلَاثَةِ أَيَّامٍ مُتَتَابِعَاتٍ﴾ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to all of this. The three days must be consecutive and it is not valid to separate them, because in the recitation of Ibn Masʿūd ؓ it is, ‘... *fast three consecutive days*,’ (Sūrat al-Mā’idah: 89) and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧١١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا أَرَدْتَّ أَنْ تُطْعِمَ فِي كَفَّارَةِ الْيَمِينِ فَغَدَاءٌ وَعَشَاءٌ .

711. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If you intend to feed [someone] for the expiation of an oath, it must be breakfast[1869] and dinner.’”[1870]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

بَابُ مَا يُجْزِئُ فِي كَفَّارَةِ الْيَمِينِ من التَّحْرِيرِ

229. WHAT EMANCIPATION [OF SLAVES] SUFFICES IN EXPIATION OF AN OATH

٧١٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قال: لا يُجْزِئُ الْمُكَاتَبُ، وَلَا أُمُّ الْوَلَدِ، وَلَا الْمُدَبَّرُ فِي شَيْءٍ من الْكَفَّارَاتِ ، وَيُجْزِئُ الصَّبِيُّ وَالْكَافِرُ فِي الظِّهَارِ .

712. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘It does not suffice[1871] for any expiation [to set free] a slave with whom a contract has been written to purchase his freedom (*mukātab*),[1872] nor an *umm walad*, nor a slave who is to be set free as a bequest upon the death of his owner (*mudabbar*). But [setting free] an infant child and a *kāfir*[1873] suffice in the case of [expiation for] *ẓihār* [divorce].’”[1874]

قَالَ مُحَمَّدٌ : وَبِهَذَا كُلِّه نَأْخُذُ ، إِلَّا فِي خَصْلَةٍ وَاحِدَةٍ : الْمُكَاتَبُ إِذَا لَمْ يُؤَدِّ شَيْئًا من مُكَاتَبَتِه حَتَّى يُعْتِقَه مَوْلَاهُ عَنْ كَفَّارَتِه أَجْزَأَه ذَلِكَ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to all of this except in one respect: if a [*mukātab*] slave who has contracted to purchase his freedom has not paid anything towards purchasing his freedom before his master sets him free, then that is valid, and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ الاسْتِثْنَاءِ فِي الْيَمِينِ

230. MAKING EXCEPTIONS IN OATHS

٧١٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنِ الْقَاسِمِ بْنِ عَبْدِ الرَّحْمن عَنْ أَبِيه عَنْ عبدِ اللَّهِ بنِ مَسْعُودٍ رَضِيَ الله عَنْه قَالَ : مَنْ حَلَفَ عَلَى يَمِينٍ فقَالَ : إِنْ شَاءَ اللَّهُ فقَدِ اسْتَثْنَى .

713. Muḥammad said, “Abū Ḥanīfah informed us from al-Qāsim ibn ʿAbd ar-Raḥmān from his father that ʿAbdullāh ibn Masʿūd ﵁ said, ‘Whoever swears an oath and says, “Inshā’Allāh,” has made an exception.’”[1875]

٧١٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : مَنْ حَلَفَ عَلَى يَمِينٍ فقَالَ : إِنْ شَاءَ اللَّهُ فقَدْ خَرَجَ من يَمِينه .

714. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Whoever swears an oath and says, “Inshā’Allāh,” has got out of his oath.’”

٧١٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا عُبَيْدُ الله عَنْ سَعِيدِ بن جَمِيل عَنْ ابنِ عمرَ رَضِيَ الله عَنْهمَا قَالَ : مَنْ حَلَفَ عَلَى يَمِينٍ فقَالَ : إِنْ شَاءَ اللَّهُ فَلَا حِنْثَ عَلَيْهِ .

715. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘ʿUbaydullāh narrated to us from Saʿīd ibn Jamīl from Ibn ʿUmar ﵄ who said, “Whoever swears an oath and says, ‘Inshā’Allāh,’ is not regarded as having broken his oath.”’”

قَالَ مُحَمَّدٌ : فَبِهذَا كُلِّهِ نَأْخُذُ وَهُوَ قَوْلُ أَبِي حَنِيفَةَ فِي الأَيْمَانِ كُلِّهَا إِذَا كَانَ قَوْلُه : إِنْ شَاءَ اللَّهُ مَوصُولاً بِكَلامِهِ قَبْلَ كَلامِهِ أَوْ بَعْدَ كَلامِهِ .

Muḥammad said, “We adhere to all of this and it is the verdict of Abū Ḥanīfah concerning all oaths when one’s saying ‘inshā’Allāh’ is connected to one’s statement before or after it.”

٧١٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : الاسْتِثْنَاءُ إِذَا كَانَ مُتَّصِلاً ، وَإِلاَّ فَلاَ شَيْءَ . قَالَ مُحَمَّدٌ وَبِهَذَا كُلِّهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى . وَذلِكَ يُجْزِئُهُ وَإِنْ لَمْ يَرْفَعْ بِهِ صَوْتَه .

716. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If making an exception is connected [to one’s oath, it is valid], but if not, it is nothing.’”

٧١٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ : إِذَا حَرَّكَ شَفَتَيْهِ بِالاسْتِثْنَاءِ فَقَدْ اسْتَثْنَى .

Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm, ‘If he moves his lips in [making] an exception, then he has made an exception [even if he does not say it aloud].”

قَالَ مُحَمَّدٌ : وَبِهَذَا نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧١٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي رَجُلٍ قَالَ لاِمْرَأَتِهِ : أَنْتِ طَالِقٌ إِنْ شَاءَ اللَّهُ ، قَالَ : لَيْسَ بِشَيْءٍ ، وَلَا يَقَعُ عَلَيْهَا الطَّلاقُ .

718. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm concerning a man who said to his wife, ‘You are

divorced, inshā’Allāh,’ that he said, ‘It is nothing and her divorce does not take place.’”[1876]

قَالَ مُحَمَّدٌ : وَبِهَذَا نَأْخُذُ ، إِذَا كَانَ اسْتِثْنَاءُه مَوْصُولاً بِيَمِينِه ، قَدَّمَه أَوْ أَخَّرَه ، وَهُوَ
قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this if his making an exception is connected at the beginning or at the end to his oath, and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ النَّذْرِ فِي الْمَعْصِيَةِ

231. VOWING TO BE DISOBEDIENT

٧١٩ - مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا مُحَمَّدُ بْنُ الزُّبَيْرِ عَنِ الْحَسَنِ عَنْ
عِمْرَانَ بْنِ الْحُصَيْنِ رَضِيَ اللهُ عَنْهُ عَنِ النَّبِيِّ صلى الله عَلَيْهِ وَسَلَّمَ أَنَّهُ قَالَ : لا نَذْرَ فِي
مَعْصِيَةٍ ، وَكَفَّارَتُه كَفَّارَةُ يَمِينٍ .

719. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Muḥammad ibn az-Zubayr narrated to us from al-Ḥasan from ʿImrān ibn al-Ḥuṣayn ﵁ that the Prophet ﷺ said, “One must not vow acts of disobedience,[1877] and the expiation of it is the expiation of an oath.”’”[1878]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٢٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : سَمِعْتُ عَامِراً الشعبيَّ يَقُولُ : لا نَذْرَ فِي مَعْصِيَةٍ ، من حَلَفَ عَلَى يَمِينِ مَعْصِيَةٍ فَلْيَرْجِعْ ، وَلَا كَفَّارَةَ عَلَيْهِ .

720. Muḥammad said, "Abū Ḥanīfah informed us saying, 'I heard ʿĀmir ash-Shaʿbī saying, "One must not vow acts of disobedience. Whoever swears an oath to do an act of disobedience must cancel it and he is not due any expiation."'"[1879]

قَالَ مُحَمَّدٌ : وَلَسْنَا نَأْخُذُ بِهذَا ، وَلكِنَّا نَأْخُذُ بِالْحَدِيثِ الأَوَّلِ ، وَمِن ذَلِكَ أَنْ يَحْلِفَ الرَّجُلُ أَنْ لا يُكَلِّمَ أَبَاهُ أَوْ أُمَّه ، أَوْ أَنْ لا يَحُجَّ ، وَلَا يَتَصَدَّقَ ، وَنَحْوَ ذَلِكَ من أَنْوَاعِ الْبِرِّ فَلْيَفْعَلِ الَّذِي حَلَفَ أَنْ لا يَفْعَلَ ، وَلْيُكَفِّرْ يَمِينَه ، أَلا تَرَى أَنَّ اللَّهَ تَبَارَكَ وَتَعَالَى جَعَلَ الظِّهَارَ مُنكَرًا مِنَ الْقَوْلِ وَزُورًا ، وَجَعَلَ فِيهِ الْكَفَّارَةَ ؟ فَكَذَلِكَ ههُنَا . وَهَذَا كُلُّه قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We do not adhere to this but we adhere to the first hadith. An example of that is a man who swears an oath not to talk to his father or mother or that he will not perform the Hajj or pay *zakāh* (*taṣaddaqa*)[1880] and similar types of good action, and so he must do the thing that he swore he would not do and he must make expiation for his oath. Do you not see that Allah, blessed is He and exalted, regards *ẓihār* as '*wrong and a slanderous lie*,' (Sūrat al-Mujādilah: 2), and appointed an expiation for it? It is the same here. This is all the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

◆

بَابُ الْخِيَارِ فِي الْكَفَّارَةِ وَالَّذِي يَجْعَلُ مَالَه فِي الْمَسَاكِينِ

232. THE CHOICE OF [THE FORM OF] EXPIATION, AND SOMEONE WHO DEDICATES HIS WEALTH TO

THE VERY POOR

٧٢١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : مَا كَانَ فِي الْقُرْآنِ
مِن قَوْلِهِ (أَوْ) فَصَاحِبُهُ بِالْخِيَارِ ، أَيَّ ذَلِكَ شَاءَ فَعَلَ ، يَعْنِي فِي الْكَفَّارَةِ .

721. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Wherever in the Qur’ān there is His saying, “*or*,” one has a choice; one may do whichever of it one wishes,’ meaning in expiation.”[1881]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ وَمِن ذَلِكَ قَوْلُهُ تَعَالَى فِي كَفَّارَةِ الْيَمِينِ : ﴿ إِطْعَامُ عَشَرَةِ مَسَاكِينَ مِن أَوْسَطِ مَا تُطْعِمُونَ أَهْلِيكُمْ أَوْ كِسْوَتُهُمْ أَوْ تَحْرِيرُ رَقَبَةٍ ﴾ ، فَأَيُّ الْكَفَّارَاتِ كَفَّرَ بِهَا يَمِينَهُ أَجْزَأَهُ ذَلِكَ ، وَلَا يُجْزِئُهُ الصِّيَامُ إِنْ كَانَ يَجِدُ بَعْضَ هَذِهِ الْأَشْيَاءِ لِأَنَّ اللَّهَ تَعَالَى يَقُولُ : ﴿ فَمَن لَّمْ يَجِدْ فَصِيَامُ ثَلَاثَةِ أَيَّامٍ ﴾ ، وَلَمْ يُخَيِّرْهُ فِي الصَّوْمِ كَمَا خَيَّرَهُ فِي غَيْرِهِ ، وهذا قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. An example of it is His words, exalted is He, respecting expiation of an oath, ‘*Feed ten poor people with the average amount you feed your family, or clothe them, or free a slave,*’ (Sūrat al-Mā’idah: 89) so that whatever one uses in expiation of his oath it is valid, and it is not valid to fast if one has any of these things, because Allah, exalted is He, says, ‘*Anyone without the means to do so should fast three days*’ (Sūrat al-Mā’idah: 89) without giving the choice of fasting as He gave the choice in the other matters. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٢٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا جَعَلَ الرَّجُلُ مَالَهُ فِي الْمَسَاكِينِ صَدَقَةً فَلْيَنْظُرْ مَا يَسَعُهُ وَيَسَعُ عِيَالَهُ ، فَلْيُمْسِكْهُ ، وَلْيَتَصَدَّقْ بِالْفَضْلِ ، فَإِذَا أَيْسَرَ تَصَدَّقَ بِمِثْلِ مَا أَمْسَكَ .

722. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a man dedicates his wealth[1882] to the very poor as an act of *ṣadaqah*, he must examine[1883] what is sufficient for him[1884] and for his dependants and retain that, giving the excess as *ṣadaqah*. If it is easy he gives in *ṣadaqah* the same as what he has retained.’”[1885]

قَالَ مُحَمَّدٌ : وَبِهَذَا كُلِّه نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ مَنْ جَعَلَ عَلَى نَفْسِهِ الْمَشْيَ

233. SOMEONE WHO IMPOSES ON HIMSELF TO WALK [ON HAJJ OR ʿUMRAH]

٧٢٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّهُ قَالَ : فِيمن جَعَلَ عَلَى نَفْسِه الْمَشْيَ ، فَمَشَى بَعْضًا ، وَرَكِبَ بَعْضًا ، قَالَ : يَعُودُ ، فَيَمْشِي ما رَكِبَ .

723. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm spoke about someone who imposes on himself to walk[1886] [on Hajj or ʿUmrah] and then walks for a part and rides for another part, and he said, ‘He should return and walk the part that he rode.’”

قَالَ مُحَمَّدٌ : وَلَسْنَا نَأْخُذُ بهذَا ، وَلَكِنَّا نَأْخُذُ بِقَوْلِ عَلِيِّ بْنِ أَبِي طَالِب رَضِيَ الله عَنْه : إِذَا رَكِبَ أَهْدَى هَدْيًا أَوْ شَاةً يُجْزِئُه ، يَذْبَحُهَا وَيَتَصَدَّقُ بِهَا ، وَلَا يَأْكُلُ مِنْهَا شَيْئًا ، وَيَعْتَمِرُ عُمْرَةً أَوْ حَجَّةً ، وَلَا شَيْءَ عَلَيْه غَيْرَ ذَلِكَ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We do not adhere to this, but we adhere to the verdict of ʿAlī ibn Abī Ṭālib ؓ, ‘If he rides, he must sacrifice a *hady* offering or a sheep or goat and it will suffice him, sacrificing it and giving it away as *ṣadaqah* and not eating any of it, and then performing an *ʿUmrah* or Hajj. There will be nothing further due from him,’[1887] and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ مَنْ جَعَلَ عَلَى نَفْسِهِ نَحْرَ ابْنِهِ أَوْ نَحْرَ نَفْسِهِ

234. WHOEVER IMPOSES ON HIMSELF TO SACRIFICE HIS SON OR TO SACRIFICE HIMSELF

٧٢٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يَجْعَلُ عَلَيْهِ أَنْ يَنْحَرَ ابْنَه أَنَّ عَلَيْهِ مِائَةَ نَاقَةٍ يَنْحَرُهَا .

724. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that a man who imposes on himself[1888] to sacrifice his son owes a hundred camels[1889] which he must sacrifice.”

قَالَ مُحَمَّدٌ : وَلَسْنَا نَأْخُذُ بِهذَا ، ولكِنَّا نَأْخُذُ بِقَوْلِ ابْنِ عَبَّاسٍ وَمَسْرُوقِ بْنِ الأَجْدَعِ .

Muḥammad said, “We do not adhere to this, but we adhere to the verdict of Ibn ʿAbbās and Masrūq ibn al-Ajdaʿ.”

٧٢٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا سِمَاكُ بْنُ حَرْبٍ عَنْ مُحَمَّدِ بْنِ الْمُنْتَشِرِ قَالَ: أَتَى رَجُلٌ ابْنَ عَبَّاسٍ رَضِيَ الله عَنْهما فقَالَ : انِّي جَعَلْتُ ابْنِي نَحِيرًا ، (أَيْ نَذَرْتُ أَنْ أَنْحَرَ ابْنِي) – وَمَسْرُوقُ بْنُ الأَجْدَعِ جَالِسٌ فِي الْمَسْجِدِ – فَقَالَ لَهُ ابْنُ عَبَّاسٍ رَضِيَ الله عَنْهما : إذْهَبْ إِلَى ذَلِكَ الشَّيْخِ، فَاسْأَلْهُ ، ثُمَّ تَعَالَ، فَأَخْبِرْنِي بِمَا يَقُولُ، فَأَتَاهُ فَسَأَلَه ، فَقَالَ مَسْرُوقٌ : إِنْ كَانَتْ نَفْسٌ مُؤْمِنَةٌ تَعَجَّلَتْ إِلَى الْجَنَّةِ ، وَإِنْ كَانَتْ كَافِرَةٌ عَجَّلْتَهَا إِلَى النَّارِ ، إِذْبَحْ كَبْشًا فَإِنَّهُ يُجْزِئُكَ . فَأَتَى ابْنَ عَبَّاسٍ رَضِيَ الله عَنْهما فَحَدَّثَه بِمَا قَالَ مَسْرُوقٌ ، قَالَ: وَأَنَا آمُرُكَ بِمَا أَمَرَكَ بِهِ مَسْرُوقٌ .

725. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Simāk ibn Ḥarb narrated to us from Muḥammad ibn al-Muntashir who said, “A man came to Ibn ʿAbbās ؓ and said, ‘I have dedicated[1890] my son as a sacrificial offering’ (i.e., ‘I have vowed to sacrifice my son’), while Masrūq ibn al-Ajdaʿ was sitting in the mosque, and so Ibn ʿAbbās ؓ said to him, ‘Go to that Shaykh and ask him and then come back and tell me what he says.’ So he went to him and asked him. Masrūq said, ‘If the person is a *mu’min* he hastens to the Garden and if a *kāfir* you hasten him to the Fire; sacrifice a ram and that will suffice you.’ He went to Ibn ʿAbbās ؓ and told him what Masrūq had said and he said, ‘And I order you to do what Masrūq ordered you to do.’”””

قَالَ مُحَمَّدٌ : فبِهذَا نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٢٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا سِمَاكُ بْنُ حَرْبٍ عَنْ مُحَمَّدِ بْنِ الْمُنْتَشِرِ عَنْ ابْنِ عباسٍ رَضِيَ الله عَنْهُمَا في الرَّجُلِ يَجْعَلُ عَلَيْهِ أَنْ يَذْبَحَ نَصِيبَه قَالَ : كَبْشًا أَوْ شَاةً .

726. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Simāk ibn Ḥarb narrated to us from Muḥammad ibn al-Muntashir that Ibn ʿAbbās said concerning a man who imposes on himself to sacrifice himself,[1891] “A ram or a ewe or goat [which he sacrifices].”’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ .

Muḥammad said, “We adhere to this.”

◆

بَابُ مَنْ حَلَفَ وَهُوَ مَظْلُومٌ

235. WHOEVER SWEARS AN OATH WHEN HE HAS BEEN WRONGED

٧٢٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا اسْتُحْلِفَ الرَّجُلُ وَهُوَ مَظْلُومٌ فَالْيَمِينُ عَلَى مَا نَوَى وَعَلَى مَا وَرَّكَ ، وإِذَا كَانَ ظَالِمًا فَالْيَمِينُ عَلَى نِيَّةِ مَنِ اسْتَحْلَفَ .

727. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘In the case where a man has been wronged and he is asked to swear an oath, the oath is according to what he intended but which the one requiring him to swear the oath has not intended.[1892] In the case where he is the wrongdoer, the oath is according to the intention of the one who requires him to swear the oath.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، الْيَمِينُ فِيمَا بَيْنَهُ وَبَيْنَ رَبِّهِ عَلَى ذَلِكَ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. The oath, in that which is between him and his Lord,[1893] is according to that, and it is the

verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٢٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : الْيَمِينُ يَمِينَانِ : يَمِينٌ تُكَفَّرُ، وَيَمِينٌ فِيهَا الاسْتِغْفَارُ ، فَالْيَمِينُ الَّتِي تُكَفَّرُ فَالرَّجُلُ يَقُولُ : وَاللَّهِ! لأَفْعَلَنَّ ، وَالَّتِي فِيهَا الاسْتِغْفَارُ فَالَّذِي يَقُولُ : وَاللَّهِ! لَقَدْ فَعَلْتُ .

728. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘There are two types of oath: there is an oath which must be expiated and an oath for which one seeks forgiveness. The oath which must be expiated is when a man says,[1894] “By Allah! I will do it!” The oath for which one seeks forgiveness[1895] is when someone says, “By Allah! I have done it!”’”

قَالَ مُحَمَّدٌ : وَبِهَذَا نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٢٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ عَائِشَةَ أُمِّ الْمُومِنِينَ رَضِيَ الله عَنْهَا فِي اللَّغْوِ قَالَتْ : هُوَ كُلُّ شَيْءٍ يَصِلُ بِهِ الرَّجُلُ كَلامَهُ لا يُرِيدُ يَمِينًا : لا وَاللَّهِ ، وَبَلَى وَاللَّهِ، وَمَا لا يَعْقِدُ عَلَيْهِ قَلْبُه .

729. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿĀ’ishah, the Mother of the Mu’minūn ﵂, said concerning an inadvertent [oath],[1896] ‘It is everything which a man says, connecting it to his speech but not meaning an oath by it [such as] “No, by Allah,” and “Of course, by Allah,” and that which his heart has not resolved upon.’”[1897]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَمن اللَّغْوِ أَيْضًا الرَّجُلُ يَحْلِفُ عَلَى الشَّيْءِ يَرَى أَنَّهُ عَلَى
مَا حَلَفَ عَلَيْهِ، فَيَكُونُ عَلَى غَيْرِ ذَلِكَ ، فَهَذَا أَيْضًا من اللَّغْوِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ
رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. An example of inadvertent [oaths] is a man who swears about something thinking that it is as he said but it turns out to be otherwise. This is also a kind of inadvertent [oath], and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◈

[1862] *aymān* is the plural of *yamīn* which means lexically “strength” and in terms of the *Sharīʿah* a contract strengthened by the resolve of the one swearing the oath to act or to leave undone.

[1863] Witnessing is an oath because of His words, exalted is He, [that the hypocrites say], “*We bear witness that you are indeed the Messenger of Allah*,” and then He says, “*They have made their oaths into a cloak*…” (Sūrat al-Munāfiqūn: 1-2).

[1864] Because contract is an oath. Allah, exalted is He, says, “*Fulfil your contracts*” (Sūrat al-Isrā’: 34). And *dhimmah* has the same meaning.

[1865] Because of his saying ﷺ, “Whoever vows a vow without saying the name [of Allah] has to make the expiation of an oath.” At-Tirmidhī.

[1866] Meaning that if someone says that if he does such-and-such he is a Jew or a Christian or anything else, then that is an oath.

[1867] And expiation is not permissible according to us before retracting the oath, but Mālik and ash-Shāfiʿī said that it is permissible. Our argument is that which Muslim narrated from Abū Hurayrah, “Whoever swears an oath but sees something other than it to be better, should do what is better and expiate his oath.”

[1868] Abū Yūsuf narrated it on p.168.

[1869] The meal that is eaten at the beginning of the day. [The word is used variously for breakfast and lunch. – Trans.]

[1870] *ʿashā’* is the meal that is eaten around the time of *ʿIshā’*.

[1871] Because of their earning their freedom.

[1872] If he has not paid anything it is valid, because his condition of slavehood still exists in every respect.

[1873] According to us a *kāfir* is valid for liberation contrary to ash-Shāfiʿī, and we say that the noun “slave” (*raqabah*) is used [in the Qur’ān] for both Muslims and *kuffār*.

[1874] See the *Muṣannaf* of Ibn Abī Shaybah, vol.3, pp.78-80.

[1875] Meaning that the exception he makes is valid and the oath does not take effect [such that he would have to expiate it if he did not fulfil it].

[1876] Abū Yūsuf narrated it on p.138.

[1877] It does not mean that it does not originally take effect since that does not accord with his statement and his expiation, but on the contrary it means that one does not fulfil it as is clearly stated in some narrations, because in them there is, “There is no fulfilment of a vow of disobedience.”

[1878] Muslim narrated it in the book of “vows” in the chapter that “one does not fulfil a vow to disobey Allah,” and Abū Dāwūd under “oaths and vows” in the chapter on “vows concerning that which the son of Ādam does not possess.”

[1879] The verdict of ash-Shaʿbī is contrary to hadith and is not acted upon.

[1880] *taṣaddaqa* I have here read to refer to the obligatory *zakāh*, since nothing else is obligatorily due from a Muslim than it, and it would not technically be an act of disobedience to swear not to give optional *ṣadaqah*. In the context of the other oaths it is clearly an oath to abstain from an obligation that is intended here, even though lexically to the modern Muslim, *ṣadaqah* almost invariably means optional generosity to the poor. However, in the language of *fiqh* and Qur’ān it regularly refers to the *zakāh*. – Trans.

[1881] Abū Yūsuf narrated it on p.168.

[1882] Meaning all of it.

[1883] Meaning, if he vows to give all of his wealth away. This type of vow is interpreted according to us to refer to his property on which he has to pay *zakāh*, as is clearly stated in *al-Badā’iʿ*, which is legal preference (*istiḥsān*). The analogical deduction if one takes it to refer to all of his wealth is as Ibrāhīm said in this tradition.

[1884] Meaning that if he cannot find anything else he should retain of it enough for his food, but if he comes into possession of something else he should give the same amount as he retained as *ṣadaqah*.

[1885] Abū Yūsuf narrated it on p.92.

[1886] Meaning someone who said, “It is obligatory on me to walk to the House of Allah,” or “to the Kaʿbah” must perform Hajj or *ʿUmrah* walking. If he wishes, he may mount and then slaughter an animal [in expiation].

[1887] Aṭ-Ṭaḥāwī mentioned that he has to sacrifice a *hady* sacrifice for giving up walking and make expiation for breaking his oath.

[1888] Meaning that he vowed.

[1889] As an expiation.

[1890] Meaning that his vow is valid but he is required to sacrifice a *hady* offering, which is to sacrifice a camel or a sheep, and that is only done during the days of *tashrīq* (the drying of the meat) whether or not he is in the *ḥaram*. This is legal preference (*istiḥsān*) and it is the verdict of Abū Ḥanīfah and Muḥammad. Analogical deduction gives that his vow is not valid and that is the verdict of Abū Yūsuf, Zufar and ash-Shāfiʿī, may Allah have mercy on them (*al-Badā’iʿ*).

[1891] *naṣībahu*: his portion. It is thus in the original and it is possible that it should be *nafsahu* (himself) instead of *naṣībahu*.

[1892] From *tawrīk*: an intention in an oath that what the person swearing intends is different from that which the person requiring him to swear intended. Abū Dāwūd narrated it from a hadith of Suwayd ibn Ḥanẓalah that he swore an oath Wā’il ibn Ḥujr was his brother and so the enemy let him pass. He mentioned that to the Messenger of Allah ﷺ and he said, “You told the truth; a Muslim is a Muslim’s brother.”

[1893] However, if someone is made to take an oath before the *qāḍī*, the oath is according to the intention of the one who demands the other to take an oath, because judgement revolves around what is outwardly apparent and so one takes no account of his equivocation and his interpretation (*ta’wīl*) lest it avert the right of the claimant.

[1894] Which is the oath that takes effect, that someone takes an oath on something future that he will or will not do it, and thus when he fails to fulfil it he is obliged to make expiation.

[1895] This is an inadvertent oath for which there is no expiation, and that is that someone swears an oath about a matter which is past, thinking that it is as he said, but the matter is contrary to what he thought.

[1896] “*Allah does not take you to task for your inadvertent oaths*.” (Sūrat al-Mā’idah: 89) – Trans.

[1897] Mālik narrated it in the *Muwaṭṭa’* under “vows” in the chapter on “inadvertent oaths,” and al-Bukhārī narrated the like of it under “oaths and vows” in the chapter [on the words of Allah, exalted is He], “*Allah does not take you to task for your inadvertent oaths*” (Sūrat al-Mā’idah:89).

SALES

بَابُ التِّجَارَةِ وَالشَّرْطِ فِي الْبَيْعِ

236. TRADE, AND STIPULATIONS IN SALES

٧٣٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا يَحْيَى بْنُ عَامِرٍ عَنْ رَجُلٍ عَنْ عَتَّابِ بْنِ أَسِيدٍ رَضِيَ الله عَنْه عَنِ النَّبِيِّ صلى الله عَلَيْهِ وَسَلَّمَ أنه قَالَ لَهُ : انْطَلِقْ إِلَى أَهْلِ اللَّهِ – يَعْنِي أَهْلَ مَكَّةَ – فَانْهَهُمْ عَنْ أَرْبَعِ خِصَالٍ : عَنْ بَيْعِ مَا لَمْ يَقْبِضُوا ، وَعَنْ رِبْحِ مَا لَمْ يَضْمَنُوا ، وَعَنْ شَرْطَيْنِ فِي بَيْعٍ ، وَعَنْ سَلَفٍ وَبَيْعٍ .

730. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Yaḥyā ibn ʿĀmir[1898] narrated to us from a man from ʿAttāb ibn Asīd ؓ that the Prophet ﷺ said to him,[1899] “Go to the people of Allah” – meaning the people of Makkah – “and forbid them to do four things: selling something they have not taken full possession of, profiting from something they do not stand guarantee for, making two stipulations[1900] in a sale, and [combining] an advance payment[1901] and a sale.’”[1902]

قَالَ مُحَمَّدٌ : وَبِهَذَا كلِّه نَأْخُذُ ، وأَمَّا قَوْلُه : (سَلَفٌ وَبَيْعٌ) ؛ فَالرَّجُل يَقُولُ لِلرَّجُلِ : أَبِيعُكَ عَبْدِي هَذَا بِكَذَا وَكذَا عَلَى أَنْ تُقْرِضَنِي كَذَا وَكَذَا ، أَوْ يَقُولُ : تُقْرِضُنِي عَلَى أَنْ أَبِيعَكَ فَلا يَنْبَغِي هَذَا ، وَقَوْلُه : (شَرْطَيْنِ فِي بَيْعٍ) ؛ الشَّيْءُ فِي الْحَالِ بِأَلْفِ دِرْهَمٍ ، وَإِلَى شَهْرٍ بِأَلْفَيْنِ ، فَيَقَعُ عُقْدَةُ الْبَيْعِ عَلَى هَذَا ، فَهَذَا لا يَجُوزُ ، وَأَمَّا قَوْلَه : (رِبْحِ مَا لَمْ يَضْمنُوا) ؛ فَالرَّجُلُ يَشْتَرِي الشَّيْءَ فَيَبِيعُه قَبْلَ أَنْ يَقْبِضَه بِرِبْحٍ ، فَلَيْسَ يَنْبَغِي لَه ذَلِكَ ، وَكَذَلِكَ لا يَنْبَغِي لَهُ أَنْ يَبِيعَ شَيْئًا اِشْتَرَاهُ حَتَّى يَقْبِضَه ، وهذَا كُلُّه قَوْلُ أَبِي حَنِيفَةَ ، إِلاَّ فِي خَصْلَةٍ وَاحِدَةٍ : الْعَقَارُ مِن الدُّورِ وَالأَرَضِينَ قَالَ : لا بَأْسَ أَنْ يَبِيعَهَا الَّذِي اشْتَرَاهَا قَبْلَ أَنْ يَقْبِضَهَا لِأَنَّهَا لا يَتَحَوَّلُ عَنْ مَوْضِعِهَا .

Muḥammad said, “We adhere to all of this. As for his words, ‘[combining] an advance payment and a sale,’ it is when someone says to another, ‘I will sell you this slave of mine for such-and-such provided that you lend me such-and-such,’ or he says, ‘You lend me provided that I sell to you,’ and this is not fitting. His saying, ‘making two stipulations in a sale,’ is when someone sells[1903] something for a thousand dirhams immediately or for payment of two thousand[1904] in a month, and so the contract of purchase takes place on this basis, and this is not valid. As for his saying, ‘profiting from what they do not stand guarantee for,’ it is when someone buys something and then sells it for a profit before taking possession of it, and one ought not to do that. Similarly, one ought not to sell something that he bought before taking possession of it. All of this is the verdict of Abū Ḥanīfah except in one respect: property, both buildings and land, about which he said, ‘There is no harm in a purchaser selling them before taking possession of them, because they cannot move from their place.’”

قَالَ مُحَمَّدٌ : وهذَا عِنْدَنَا لا يَجُوزُ ، وَهُوَ كَغَيْرِه من الأَشْيَاءِ .

Muḥammad said, “According to us this is not valid, and it [the property] is the same as other things.”

٧٣١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يَشْتَرِي الْجَارِيَةَ وَيُشْتَرَطُ عَلَيْهِ : أَنْ لا يَبِيعَ ، و لا يَهَبَ ، فَكَرِهَهُ ، وَقَالَ : لَيْسَتْ بِامْرَأَةٍ تَزَوَّجْتَهَا ، وَلَا بِمِلْكِ يَمِينٍ تَصْنَعُ بِهَا مَا تَصْنَعُ بِمِلْكِ يَمِينِكَ .

731. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm concerning a man who purchases a slave woman and a stipulation is imposed on him that he should not sell [her], that he abhored it. He said, ‘She is not a woman you have married, nor [do you have] ownership so that you can do with her what you can do with those you own.’”

قَالَ مُحَمَّدٌ : وَبِهَذَا كُلِّهِ نَأْخُذُ ، كُلُّ شَرْطٍ اُشْتُرِطَ فِي الْبَيْعِ لَيْسَ مِن الْبَيْعِ ، فِيهِ منفعَةٌ لِلْبَائِعِ أَوْ لِلْمُشْتَرِي ، أَوْ لِلْمُشْتَرَى لَهُ فَالْبَيْعُ فِيهِ فَاسِدٌ ، وَمَا كَانَ من شَرْطٍ لا منفعَةَ فِيهِ لِوَاحِدٍ منهُمْ فَالْبَيْعُ فِيهِ جَائِزٌ ، وَالشَّرْطُ فِيهِ بَاطِلٌ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to all of this. For every stipulation laid down in a sale that is not a part of the sale, in which there is some benefit for the seller or the purchaser, the transaction of a sale on that basis is invalid. For whatever stipulation there is which is of no benefit[1905] to either party, the transaction of a sale on that basis is valid but the stipulation in it is invalid, and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٣٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : سَمِعْتُ عَطَاءَ بْنَ أَبِي رَبَاحٍ وَسُئِلَ عَنْ ثَمَنِ الْهِرِّ ، فَلَمْ يَرَ بِهِ بَأْساً .

732. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘I heard ʿAṭāʾ ibn Abī Rabāḥ being asked about the price of a cat and he saw no harm in it.’”[1906]

قَالَ مُحَمَّدٌ : وَبِهَذَا نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى . لا بَأْسَ بِبَيْعِ السِّبَاعِ كُلِّهَا إِذَا كَانَ لَهَا قِيمَةٌ .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him. There is no harm in selling any beast of prey if it has a value.”

◆

بَابُ مَنْ بَاعَ نَخْلاً حَامِلاً أَوْ عَبْداً وَلَه مَالٌ

237. SOMEONE WHO SELLS FECUNDATED DATE-PALMS OR A SLAVE WHO HAS PROPERTY

٧٣٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ أَبِي الزُّبَيْرِ عَنْ جَابِرِ بْنِ عبدِ اللَّهِ الأَنْصَارِيِّ رَضِيَ الله عَنْه عَنِ النَّبِيّ صلى الله عَلَيْهِ وَسَلَّمَ أَنَّهُ قَالَ : مَنْ بَاعَ نَخْلاً مُؤَبَّرًا أَوْ عَبْدًا لَهُ مَالٌ فَثَمَرَتُه وَالْمَالُ لِلْبَائِعِ إِلاَّ أَنْ يَشْتَرِطَ الْمُشْتَرِي .

733. Muḥammad said, “Abū Ḥanīfah informed us from Abū’z-Zubayr from Jābir ibn ʿAbdullāh al-Anṣārī ﵁ that the Prophet ﷺ said, ‘Whoever sells a pollinated[1907] date-palm or a slave who has property,[1908] the fruit and the property belong to the seller unless the purchaser stipulates it.’”[1909] [1910]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، إِذَا طَلَعَ الثَّمَرُ فِي النَّخْلِ أَوْ كَانَ فِي الأَرْضِ زَرْعٌ نَابِتٌ ، فَبَاعَهَا صَاحِبُهَا فَالثَّمَرَةُ وَالزَّرْعُ لِلْبَائِعِ إِلاَّ أَنْ يَشْتَرِطَ ذَلِكَ الْمُشْتَرِي .

Muḥammad said, “We adhere to this. If the fruit of the date-palm is sprouting or there are crops in the land which are growing and their owner sells them [the date-palms and the land], the fruit and the crops belong to the seller unless the purchaser stipulates that.”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَكَذلِكَ الْعَبْدُ إِذَا كَانَ لَهُ مَالٌ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. It is the same in the case of a slave who has property, and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◈

بَابُ مَنِ اشْتَرَى سِلْعَةً فَوَجَدَ بِهَا عَيْباً أَوْ حَبْلاً

238. SOMEONE WHO PURCHASES GOODS AND FINDS A DEFECT IN THEM OR A PREGNANCY

٧٣٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنِ الْهَيْثَمِ عَنِ ابنِ سيرينَ عَنْ عليٍّ بْنِ أَبِي طَالِبٍ رَضِيَ الله عَنْه فِي الرَّجُلِ يَشْتَرِي الْجَارِيَةَ فَيَطَأُهَا ثُمَّ يَجِدُ بِهَا عَيْبًا قَالَ : لا يَسْتَطِيعُ رَدَّهَا ، وَلَكِنَّه يَرْجعُ بِنُقْصَانِ الْعَيْبِ.

734. Muḥammad said, “Abū Ḥanīfah narrated to us from Haytham from Ibn Sīrīn that ʿAlī ibn Abī Ṭālib ﵁ said about a man who buys a slave woman and has intercourse with her, but then finds a defect in her, ‘He is unable to return her,[1911] but he may return [to the seller for a reduction in the price] for the shortcoming of the defect.’”

قَالَ مُحَمَّدٌ : وَبِهَذَا نَأْخُذُ ، وَكَذلِكَ إِنْ لَمْ يَطَأْهَا وَحَدَثَ بِهَا عَيْبٌ عِنْدَه، ثُمَّ وَجَدَ بِهَا عَيْبًا دَلَّسه لَهُ الْبَائِعُ فَإِنَّهُ لا يَسْتَطِيعُ رَدَّهَا ، وَلَكِنَّه يَرْجعُ بِحِصَّةِ الْعَيْبِ الأَوَّلِ من الثَّمن ، إِلاَّ أَنْ يَشَاءَ الْبَائِعُ أَنْ يَأْخُذَهَا بِالْعَيْبِ الَّذي حَدَث عِنْدَ الْمُشْتَرِي ، وَلَا يَأْخذُ لِلْعَيْب أَرْشًا ، وَلَا لِلْوَطْئِ عُقْرًا ، فَإِنْ شَاءَ ذَلِكَ أَخَذَهَا وَأَعْطى الثَّمَنَ كُلَّهُ ، وَهَذَا كُله قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this, and it is similar in the case in which he had not had sexual intercourse with her but something happened to impair her during his ownership and then he found a defect in her that the seller had concealed from him: he is unable to return her, but he may return [to the seller for a reduction] in the price in proportion to the first defect unless the seller wants to to take her back along with the defect that happened to her in the possession of the purchaser. He [the seller] may not take a compensatory payment[1912] for the defect [that happened in the possession of the purchaser] nor a compensatory dowry[1913] for the act of sexual intercourse. If he wishes he may take her and pay the complete price for her, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٣٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أنه قَالَ : من بَاعَ جَارِيَةً حُبْلَى ثُمَّ ادَّعَى الْوَلَدَ الْمُشْتَرِي وَالْبَائِعُ جَمِيعًا فَهُوَ لِلْمُشْتَرِي ، فَإِنِ ادَّعَاهُ الْبَائِعُ وَنَفَاهُ الْمُشْتَرِي فَهُوَ وَلَدُه . وَإِنْ نَفَيَاهُ جَمِيعًا فَهُوَ عَبْدٌ لِلْمُشْتَرِي ، وَإِنْ شَكَّا فِيهِ فَهُوَ بَيْنَهُمَا ، يَرِثُهُمَا وَيَرِثَانِه .

735. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If someone sells a pregnant slave woman and then both purchaser and seller lay claim to [the paternity of] the child, he pertains to the purchaser. If the seller claims him and the purchaser repudiates him then he is his child,[1914] but if they both repudiate him then he is a slave [and the property] of the purchaser. If they are both in doubt, he pertains to both of them, and he inherits from them and they from him.’”

قَالَ مُحَمَّدٌ :وَلَسْنَا نَأْخُذُ بِهذَا ، وَلٰكِنَّا نَقُولُ : إِنْ جَاءَتْ بِهِ عِنْدَ الْمُشْتَرِي لِأَقَلَّ من سِتَّةِ أَشْهُرٍ ، فَادَّعَيَاهُ جَمِيعًا مَعًا فَهُوَ ابْنُ الْبَائِعِ ، وَيَنْتَقِضُ الْبَيْعُ فِيهِ وَفِي أُمِّهِ ، وَإِنْ جَاءَتْ بِهِ لِأَكْثَرَ من سِتَّةِ أَشْهُرٍ مُنْذُ وَقَعَ الشِّرَاءُ فَهُوَ ابْنُ الْمُشْتَرِي ، وَلَا دَعْوَةَ لِلْبَائِعِ فِيهِ عَلَى كُلِّ حَالٍ ، وَإِنْ شَكَّا فِيهِ أَوْ جَحَدَاهُ فَهُوَ عَبْدٌ لِلْمُشْتَرِي ، وهذَا كُلُّه قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللّٰهُ تَعَالَى .

Muḥammad said, “We do not adhere to this, but our verdict is that if she gives birth to him while in the ownership of the purchaser for less than six months and they both lay claim to him, he is the child of the seller, and his sale and the sale of his mother are invalidated. If she gives birth to him more than six months after the sale took place, he is the purchaser’s child and the seller has no claim on him in any circumstances. If they are both in doubt about him or they argue about him, he is a slave belonging to the purchaser, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٣٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا وَطِئَ الْمَمْلُوكَةَ ثَلَاثَةُ نَفَرٍ فِي طُهْرٍ وَاحِدٍ ، فَادَّعَوْهُ جَمِيعًا فَهُوَ لِلْآخِرِ ، وَإِنْ نَفَوْهُ جَمِيعًا فَهُوَ عَبْدٌ لِلْآخِرِ ، فَإِنْ قَالُوا : لَا نَدْرِي ، وَرِثُوهُ وَوَرِثَهُمْ جَمِيعًا .

736. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a slave woman is made love to by three men during one period of purity and they all lay claim to him [the child], he is [the child] of the last. If they all repudiate him, he is a slave of the last one.[1915] If they all say, ‘We do not know,’ [if he dies] they all inherit from him and [if they die] he inherits from all of them.”

قَالَ مُحَمَّدٌ : وَلَسْنَا نَأْخُذُ بِهذَا ، وَلٰكِنَّهُمْ إِنِ ادَّعَوْهُ جَمِيعًا مَعًا نَظَرْنَا بِكَمْ جَاءَتْ بِهِ مُنذُ مَلَكَه الآخِرُ؟ فَإِنْ كَانَتْ جَاءَتْ بِهِ لِأَكْثَرَ مِن سِتَّةِ أَشْهُرٍ فَهُوَ ابْنُ الْمُشْتَرِي الآخِرِ، وَإِنْ كَانَتْ جَاءَتْ بِهِ لِأَقَلَّ مِن سِتَّةِ أَشْهُرٍ منذُ بَاعَهَا الأَوَّلُ فَهُوَ ابْنُ الأَوَّلِ، وَإِنْ نَفَوْهُ جَمِيعًا أَوْ شَكُّوا فِيهِ فَهُوَ عَبْدٌ لِلآخِرِ ، وَلَا يَلْزَمُ النَّسَبُ بِالشَّكِّ حَتَّى يَأْتِيَ الْيَقِينُ ، وهذَا كُلُّه قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We do not adhere to this, but if they lay claim to him, we investigate how long after the last one bought her she gave birth. If she had given birth to him after more than six months, he is the child of the last purchaser. But if she had given birth to him less than six months after the first one sold her, he is the child of the first. If they all repudiate him or are in doubt concerning him, he is the slave of the last one, and no ascription of kinship may be made in cases of doubt until certainty has been established, and this is all the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ الْفُرْقَةِ بَيْنَ الأَمَةِ وَزَوْجِهَا وَوَلَدِهَا

239. SEPARATING A SLAVE WOMAN, HER HUSBAND HER CHILD

٧٣٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا عبدُ اللَّهِ بنُ الْحسَنِ قَالَ : أَقْبَلَ زَيْدُ بْنُ حَارِثَةَ رَضِيَ الله عَنْه بِرَقِيقٍ من الْيمن ، فَاحْتَاجَ إِلَى النَّفَقَةِ يُنْفِقُ عَلَيْهِم ، فَبَاعَ غُلامًا من الرَّقِيقِ كَانَ مَعَهُ أُمُّه ، فَلَمَّا قَدِمَ عَلَى النَّبِيِّ صلى الله عَلَيْهِ وَسَلَّمَ تَصَفَّحَ الرَّقِيقَ ، فَبَصُرَ بِالأُمِّ ، قَالَ : مَا لِي أَرَى هذهِ وَالِهَةً ؟ قَالَ : احْتَجْنَا إِلَى نَفَقَةٍ ، فَبِعْنَا ابْنًا لَهَا ، فَأَمَرَه أَنْ يَرْجِعَ فَيَرُدَّه .

737. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘ʿAbdullāh ibn al-Ḥasan narrated to us saying, “Zayd ibn al-Ḥārithah ﵁ returned from the Yemen with slaves. He was in need of some money for their maintenance and so he sold a boy from among the slaves whose mother was with him. When he came to the Prophet ﷺ, he examined[1916] the slaves and noticed the mother. He said, ‘Why do I see this one overcome by intense grief?’ He said, ‘We were in need of some money for maintenance and so we sold a son of hers,’ and he [ﷺ] told him to go back and get him back.”’”[1917]

قَالَ مُحَمَّدٌ : وَبِهَذَا نَأْخُذُ ، نَكْرَهُ أَنْ يُفَرَّقَ بَيْنَ الْوَالِدَةِ أَوِ الْوَالِدِ وَوَلَدِهِ إِذَا كَانَ صَغِيرًا ،
وَكَذَلِكَ الإِخْوَانُ ، وَكُلُّ ذِي رَحِمٍ مَحْرَمٍ إِذَا كَانَا صَغِيرَيْنِ . أَوْ كَانَ أَحَدُهُمَا صَغِيرًا ،
وَلَا يَنْبَغِي أَنْ يُفَرَّقَ بَيْنَهُمَا فِي الْبَيْعِ ، فَأَمَّا إِذَا كَانُوا كِبَارًا كُلُّهُمْ فَلَا بَأْسَ بِالْفُرْقَةِ بَيْنَهُمْ ،
وهذا كُلُّه قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this; we abhor a mother or father being separated from a child if he is young, and similarly brothers and sisters and everyone of the degree of kinship that prohibits their marrying each other [*maḥram*], if they are young, or if one of the two of them is young. The two of them ought not to be sold separately. As for if they are all adults, there is no harm in separating them, and this is all the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٣٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ ابن مَسْعُودٍ رَضِيَ
الله عَنْه فِي الْمَمْلُوكَةِ تُبَاعُ وَلَهَا زَوْجٌ قَالَ : بَيْعُهَا طَلَاقُهَا .

738. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm from Ibn Masʿūd ﵁ concerning a slave woman who is sold whilst married, and he said, ‘Her sale is her divorce.’”[1918]

قَالَ مُحَمَّدٌ : وَلَسْنَا نَأْخُذُ بهذَا ، هِيَ امْرَأَتُه وَإِنْ بِيعَتْ ، قَالَ : بَلَغَنَا ذَلِكَ عَنْ عُمَرَ بنِ الْخَطَّابِ وعَنْ عليٍّ بنِ أَبِي طَالِبِ ، وعَنْ عبدِ الرحمنِ بن عوفٍ ، وحذيفةَ بْنِ اليمانِ رَضِيَ الله تَعَالَى عَنْهم ، وَلكِنْ لا بَأْسَ أَنْ يُفَرَّقَ بَيْنَهُمَا فِي الْبَيْعِ وَهِيَ امْرَأَتُه عَلَى حَالِها ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللّٰهُ تَعَالَى .

Muḥammad said, “We do not adhere to this; she remains his wife even if she is sold.” He said, “That has reached us from ʿUmar ibn al-Khaṭṭāb ﵁, ʿAlī ibn Abī Ṭālib, ʿAbd ar-Raḥmān ibn ʿAwf and Ḥudhayfah ibn al-Yamān ﵃. However, there is no harm in selling them separately, she remaining his wife in that state of hers. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ السَّلَم فِيمَا يُكَالُ وَيُوزَنُ

240. ADVANCE PAYMENTS[1919] FOR SOMETHING THAT IS MEASURED[1920] OR WEIGHED

٧٣٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : أَسْلَمَ مَا يُكَالُ فِيمَا يُوزَنُ ، وَمَا يُوزَنُ فِيمَا يُكَالُ ، وَلَا يُسْلِمُ مَا يُكَالُ فِيمَا يُكَالُ ، وَلَا مَا يُوزَنُ فِيمَا يُوزَنُ ، وإِذَا اخْتَلَفَ النَّوْعَانِ فِيمَا لا يُكَالُ وَلَا يُوزَنُ فَلَا بَأْسَ بِاثْنَيْنِ بواحِدٍ يَدًا بِيَدٍ ، وَلَا بَأْسَ بِهِ نَسَاً ، وَإِذَا كَانَ مِن نَوْعٍ وَاحِدٍ مِمَّا لا يُكَالُ وَلَا يُوزَنُ فَلَا بَأْسَ بِهِ اثْنَيْنِ بِوَاحِدٍ يَدًا بِيدٍ ، وَ لا خَيْرَ فِيهِ نَسَاً .

739. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Advance payment can be made with something which is measured for something which is weighed, and with something which is weighed for something which is measured, but advance payment may not be made with something which is measured for something which is

measured nor with something which is weighed for something which is weighed. If the two varieties of those things which are not measured or weighed are different, there is no harm in paying two for one, hand to hand, nor is there any harm in deferred payment[1921] in it. And if they are from the same variety of those things which are not measured nor weighed, there is no harm in two for one, hand to hand and there is no good in deferred payment in it.'"[1922]

قَالَ مُحَمَّدٌ : وَبِهَذَا كُلِّه نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to all of this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

٧٤٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يَكُونُ لَهُ عَلَى الرَّجُلِ الدَّيْنُ وَيَجْعَلُه فِي السَّلَمِ قَالَ : لا خَيْرَ فِيهِ حَتَّى يَقْبِضَه .

740. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who is owed a debt by another man and makes it into an advance payment, 'There is no good in it until he takes possession of [what is owed him].'"[1923]

قَالَ مُحَمَّدٌ : وَبِه نَأْخُذُ لِأَنَّ ذلك بَيْعُ الدَّيْنِ بِالدَّيْنِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this, because it is of the same nature as selling a debt for a debt, and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

◆

image

241. ADVANCE PAYMENT FOR FRUIT "UNTIL THE CUTTING [OF THE FRUIT]"[1924] AND OTHER THINGS

image

741. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Advance payment “until harvest”[1925] or “until the cutting [of the fruit]” is abhorent.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، لِأَنَّهُ أَجَلٌ مَجْهُولٌ يَتَقَدَّمُ وَيَتَأَخَّرُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this, because it is an unknown period of time, which may come early or be delayed, and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٤٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يُسْلِمُ فِي الْفَاكِهَةِ إِلَى الْقِطَاعِ يَأْخُذُ قَفِيزًا قَفِيزًا قَالَ : لَا خَيْرَ فِيهِ .

742. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who makes an advance payment ‘until the cutting [of the fruit]’ taking a *qafīz* at a time, ‘There is no good in it.’”[1926]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٤٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يُسْلِمُ فِي الثَّمَرِ قَالَ : لَا ؛ حَتَّى يُطْعَمَ .

743. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us that Ibrāhīm said concerning a man making advance payment for fruits,[1927] “No, not until it can be eaten.”’”[1928]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، لا يَنْبَغِي أَنْ يُسْلِمَ فِي ثَمَرَةٍ لَيْسَتْ فِي أَيْدِي النَّاسِ إِلَّا فِي زَمَانِهَا بَعْدَ بُلُوغِهَا ، وَيَجْعَلَ أَجَلَ السَّلَمِ قَبْلَ انْقِطَاعِهَا ، فَإِذَا فَعَلَ ذَلِكَ فَهُوَ جَائِزٌ ، وَإِلَّا فَلَا خَيْرَ فِيهِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this. One ought not to make advance payment for fruits that are not yet in people’s possession, except in their time[1929] after their reaching ripeness, and the term for making the advance payment is before they are cut. If he does that, it is valid, and if not, there is no good in it,[1930] and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

بَابُ السَّلَمِ فِي الْحَيَوَانِ

242. ADVANCE PAYMENT FOR ANIMALS

٧٤٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ قَالَ : دَفَعَ عَبْدُ اللَّهِ بْنُ مَسْعُودٍ رَضِيَ الله عَنْه إِلَى زَيْدِ بْنِ خُوَيْلِدَةَ الْبَكْرِيِّ مَالاً مُضَارَبَةً ، فَأَسْلَمَ زَيْدٌ إِلَى عِتْرِيسِ بْنِ عُرْقُوب الشَّيْبَانِيِّ فِي قَلَائِصَ ، فَلَمَّا حَلَّتْ أَخَذَ بَعْضًا وَبَقِيَ بَعْضٌ ، فَأَعْسَرَ عِتْرِيسٌ ، وَبَلَغَه أَنَّ الْمَالَ لِعَبْدِ اللَّهِ رَضِيَ الله عَنْه ، فَأَتَاهُ يَسْتَرْفِقُه ، فَقَالَ عبدُ اللَّهِ رَضِيَ الله عَنْه : أَفَعَلَ زَيْدٌ ؟ قَالَ : نَعَمْ ، فَأَرْسَلَ إِلَيْهِ ، فَسَأَلَه ، فَقَالَ لَهُ عَبْدُ اللهِ رَضِيَ الله عَنْه : ارْدُدْ مَا أَخَذْتَ وَخُذْ رَأْسَ مَالِكَ ، وَلَا تُسْلِمَنَّ مَالَنَا فِي شَيْءٍ من الْحَيَوَانِ .

744. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm who said, “ʿAbdullāh ibn Masʿūd ﵁ paid to Zayd ibn Khuwaylidah al-Bakrī[1931] some money as a profit-sharing loan (*muḍārabah*) and Zayd paid an advance payment to ʿItrīs ibn ʿUrqūb ash-Shaybānī for some young female camels. When the term fell due, he took[1932] some and some remained. That caused problems for ʿItrīs and then it reached him that the money belonged to ʿAbdullāh ﵁ and he came to him asking him to help him.[1933] ʿAbdullāh ﵁ asked, ‘Did Zayd do that?’ He said, ‘Yes.’ So he sent for him and asked him. ʿAbdullāh ﵁ said to him, ‘Return what [camels] you took and take your capital sum and do not give our money in advance payments for anything in the nature of animals.’”’”[1934]

قَالَ مُحَمَّدٌ : وَبِهَذَا كُلِّه نَأْخُذُ ، لا يَجُوزُ السَّلَمُ فِي شَيْءٍ من الْحَيَوَانِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to all of this. Advance payment is not permissible for anything in the nature of animals, and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◈

243. SECURITY AND A PAWNED ITEM[1935] MADE IN ADVANCE PAYMENT

745. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us from Ibrāhīm who said, “There is no harm[1936] in a pawned item or something left as security in advance payment.”’”[1937]

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

746. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning an advance payment made in *fulūs* (small change) for which one takes a security, ‘There is no harm in it.’”[1938]

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

244. ADVANCE PAYMENT FOR WHICH ONE TAKES PART OF IT [THE ITEMS BEING BOUGHT] AND PART OF ONE’S CAPITAL SUM

747. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Abū ʿAmr[1939] narrated to us from Saʿīd ibn Jubayr from Ibn ʿAbbās concerning an advance payment whose payment falls due[1940] for which one takes part of it [the items paid for][1941] and takes part of one’s capital sum for whatever remains, that he said, ‘This is the good well-recognised practice.’”[1942]

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

245. ADVANCE PAYMENT FOR FABRIC

748. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If someone pays in advance for fabric and its width and [substance or] thickness are known, it is valid, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”[1943]

Muḥammad said, “We adhere to this if its length, width, thickness, its type and the period of time are all named and the price is paid in ready money before they separate, then it is valid.”

749. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who pays with fabric in advance for fabric, ‘If they are of different types, there is no harm in it.’”[1944]

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◈

246. OFFERING TO BUY ON TOP OF ONE’S BROTHER’S OFFER TO BUY

750. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm from Abū Saʿīd al-Khudrī and Abū Hurayrah that the Prophet ﷺ said, ‘A man must not offer to buy[1945] on top of his brother’s offer to buy, nor propose marriage on top of his marriage proposal. Do not bid against each other in order to up the price[1946] and do not sell to each other [settling the sale] by throwing pebbles.[1947] If someone hires an employee, he should let him know his wage. A woman should not be married along with her paternal or maternal aunt, nor should she ask for her

sister’s divorce in order to overturn[1948] what is in her bowl,[1949] for Allah is her Provider.’”[1950]

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him. As for his saying, ‘Do not bid against each other in order to up the price,’ it is when a man sells something and another man increases the price without intending to buy it so that someone else might overhear it and thus purchase it on top of his offer, and this is falsely bidding up the price (*najash*) which ought not to be done. As for his saying, ‘do not sell to each other [settling the sale] by throwing pebbles,’ it was a type of sale that was done in the age of ignorance (*jāhiliyyah*) in which one of the two would say, ‘When I throw the stone, the sale is binding,’ and this is abhorent and ought not to be done, and a sale done this way is invalid.”

◈

247. CONVEYING TRADE TO LAND AT WAR (*DĀR AL-ḤARB*)

751. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a trader who goes regularly to land at war, ‘There is no harm in that as long as he does not convey weapons, horses (*kurāʿ*)[1951] or booty (*salab*).”[1952] [1953]

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◈

بَابُ التِّجَارَةِ فِي الْعَصِيرِ وَ الْخَمْرِ

248. TRADING IN PRESSED FRUIT JUICES AND WINE

٧٥٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الْعَصِيرِ قَالَ : لا بَأْسَ
بِأَنْ تَبِيعَهُ مِمَّنْ يَصْنَعُهُ خَمْرًا .

752. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning pressed fruit juice, ‘There is no harm in selling it to someone who manufactures wine from it.[1954]’”

وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

[Muḥammad said], “And we adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٥٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا مُحَمَّدُ بْنُ قيس عَنْ ابن عمر
رَضِيَ الله عَنْهما قالَ : سَأَلَه رَفِيقٌ لَهُ عَنْ بَيْعِ الْخَمْرِ وعَنْ أَكْلِ ثَمَنِهَا ، قَالَ : قَاتَلَ اللَّهُ
الْيَهُودَ ، وَحُرِّمَتْ عَلَيْهِمُ الشُّحُومُ أَنْ يَأْكُلُوهَا ، فَاسْتَحَلُّوا بَيْعَهَا وَأَكْلَ ثَمَنِهَا ، إِنَّ اللَّهَ حَرَّمَ
الْخَمْرَ ، فَحَرَامٌ بَيْعُهَا وَأَكْلُ ثَمَنِهَا .

753. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Muḥammad ibn Qays narrated to us from Ibn ʿUmar image who said that a friend of his had asked[1955] about selling wine and eating [from] its proceeds and he said, “May Allah fight the Jews! Fat (*shuḥūm*)[1956] was forbidden them to eat and so they declared the sale of them permissible and ate from the proceeds. Allah forbade wine, and so its sale and eating from its proceeds are *ḥarām*.”’”[1957]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٥٤ – مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا مُحَمَّدُ بْنُ قيس : أَنَّ رَجُلاً من ثَقِيفٍ يُكْنَى أَبَا عَامِرٍ كَانَ يُهْدِي لِرَسُولِ اللَّهِ صلى الله عَلَيْهِ وَسَلَّمَ كُلَّ عَام رَاوِيَةً من خَمْرٍ ، فَأَهْدَى إِلَيْه فِي الْعَام الَّذِي حُرِّمَتْ رَاوِيَتَه كَمَا كَانَ يُهْدِي ، فَقَالَ لَهُ النَّبِيّ صلى الله عَلَيْهِ وَسَلَّمَ: يَا أَبَا عَامِرٍ ! إِنَّ اللَّهَ قَدْ حَرَّمَ الْخَمْرَ ، فَلَا حَاجَةَ لَنَا فِي خَمْرِك ، قَالَ فَخُذْهَا يَا رَسُولَ اللَّهِ ، فَبِعْهَا ، وَاسْتَعِنْ بِثَمَنِهَا عَلَى حَاجَتِك ، فَقَالَ لَهُ النَّبِيّ صلى الله عَلَيْهِ وَسَلَّمَ: يَا أَبَا عَامِرٍ ! إِنَّ الَّذِي حَرَّمَ شُرْبَهَا حَرَّمَ بَيْعَهَا وَأَكْلَ ثَمَنِهَا .

754. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Muḥammad ibn Qays narrated to us that every year a man from Thaqīf[1958] whose honorific was Abū ʿĀmir used to give a three-skinned leathern water-bag containing wine as a gift to the Messenger of Allah ﷺ. In the year in which it [wine] was prohibited he presented his water-bag as a gift as he ordinarily did, and the Prophet ﷺ said to him, “Abū ʿĀmir, Allah has made wine *ḥarām* so we are in no need of your wine.” He said, “Then take it Messenger of Allah and sell it, and seek benefit from its proceeds for your own needs.” So the Prophet ﷺ said to him, “Abū ʿĀmir! The One Who forbade drinking it, forbade its sale and eating from its proceeds.”’”[1959]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ بَيْعِ صَيْدِ الآجَامِ وَالسَّمَكِ وَالْقَصَبِ

249. THE SALE OF GAME IN REED THICKETS,[1960] FISH AND BAMBOO

٧٥٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ : أَنَّهُ كَانَ يَكْرَهُ بَيْعَ صَيْدِ الآجَامِ وَقَصْبِهَا .

755. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us of Ibrāhīm, “He used to abhor[1961] the sale of game in reed thickets and their bamboo trees.”’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٥٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ: حَدَّثَنَا حَمَّادٌ قَالَ: طَلَبْتُ من أَبِي عَبْدِ الْحَمِيدِ أَنْ يَكْتُبَ إِلَى عُمَرَ بْنِ عَبدِ العزيزِ يَسْأَلُه عَنْ بَيْعِ صَيْدِ الآجَامِ وَقَصَبِهَا ، فَكَتَبَ إِلَيْهِ عُمَرُ رَضِيَ الله عَنْه: إِنَّه الْجِنْسُ ، لا بَأْسَ به .

756. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us saying, “I asked Abū ʿAbd al-Ḥamīd to write to ʿUmar ibn ʿAbd al-ʿAzīz and ask him about selling game caught in reed thickets and their bamboo trees, and so ʿUmar ﵁ wrote to him, ‘It is all one species and there is no harm in it.’”’

وَلَسْنَا نَأْخُذُ بهذَا ، نُجِيزُ بَيْعَ الْقَصَبِ إِذَا بَاعَه خَاصَّةً ، فَأَمَّا الصَّيْدُ فَلَا نُجِيزُ بَيْعَه إلاَّ أَنَّه يَكُونُ يُؤْخَذُ بِغَيْرِ صَيْدٍ ، فَيَجُوزُ الْبَيْعُ فِيه ، وَيَكُونُ صَاحِبُه بِالْخِيَارِ إِذَا رآه، إِنْ شَاءَ أَخَذه، وإِنْ شَاءَ تَركه، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

And we do not adhere to this. We permit the sale of bamboo trees if someone is selling them in particular, but as for game[1962] we do not permit its sale unless it is taken without hunting[1963] in which case sale is permissible for it, and its buyer has a choice when he sees it such that if he wishes he may take it, and if he wishes he may leave it, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ شِرَاءِ الذَّهَبِ وَالْفِضَّةِ تَكُونُ فِي السِّبْرِ وَالْجَوْهَرِ

250. THE PURCHASE OF GOLD AND SILVER SET IN SOMETHING OF GOOD APPEARANCE (*SIBR*), AND JEWELS

٧٥٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا كَانَ الْخَاتَمُ فِضَّةً وَفِيهِ فَصٌّ فَاشْتَرِهِ بِمَا شِئْتَ ، إِنْ شِئْتَ قَلِيلاً ، وَإِنْ شِئْتَ كَثِيرًا .

757. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If a ring is silver and there is a gem in it, then buy it for whatever you wish; a little if you wish or a lot if you wish.’”

وَلَسْنَا نَأْخُذُ بِهذَا ، وَلَا نُجِيزُ الْبَيْعَ حَتَّى يُعْلَمَ أَنَّ الثَّمَنَ أَكْثَرُ من الْفِضَّةِ الَّتِي فِي الْخَاتَمِ ، فَيَكُونُ فَضْلُ الثَّمن بِالْفَصِّ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

“And we do not adhere to this, and we do not permit the sale until it is known that the price is more than the silver in the ring and that the extra price is for the gem, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٥٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا الْوَلِيدُ بْنُ سَرِيعٍ عَنْ أَنسِ بْنِ مالِكٍ رَضِيَ اللهُ عَنْه قَالَ : بُعِثَ إِلَى عُمَرَ رَضِيَ اللهُ عَنْه بِإِنَاءٍ من فِضَّةٍ خُسْرُوَانِيٍّ قَدْ أُحْكِمَتْ صَنْعَتُه ، فَأَمَرَ الرَّسُولَ أَنْ يَبِيعَه ، فَرَجَعَ الرَّسُولُ فَقَالَ : إِنِّي أُزَادُ عَلَى وَزْنِه ، قَالَ عُمَرُ رَضِيَ اللهُ عَنْه : لَا ؛ فَإِنَّ الْفَضْلَ رِباً .

758. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Al-Walīd ibn Sarīʿ narrated to us from Anas ibn Mālik ﵁ who said, “A Khusrāwī[1964] vessel of silver of very strong workmanship was sent to ʿUmar ﵁ and he told the messenger to sell it. The messenger returned and said, ‘I was given more than its value in silver.’ ʿUmar ﵁ said, ‘No, because the extra amount is usury.’”’”

وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

“And we adhere to this, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”[1965]

◆

بَابُ شِرَاءِ الدَّرَاهِمِ الثِّقَالِ بِالْخِفَافِ وَالرِّبَوا

251. PURCHASING HEAVY DIRHAMS WITH LIGHT ONES, AND USURY

٧٥٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا مَرْزُوقٌ عَنْ أَبِي جَبَلَةَ عَنْ ابْنِ عُمَرَ رَضِيَ الله عَنْهما قَالَ : قُلْتُ لَهُ : إِنَّا نَقْدَمُ الأَرْضَ بِهَا الْوَرِقُ الثِّقَالُ الْكَاسِدَةُ ، وَمَعَنَا وَرِقٌ خِفَافٌ نَافِقَةٌ ، أَنَبِيعُ وَرِقَنَا بِوَرِقِهِمْ؟ قَالَ: لا ، وَلَكِنْ بِعْ وَرِقَكَ بِالدَّنَانِيرِ ، وَاشْتَرِ وَرِقَهُمْ، وَلَا تُفَارِقْ صَاحِبَكَ شِبْرًا حَتَّى تَسْتَوْفِيَ منه ، فَإِنْ صَعِدَ فَوْقَ الْبَيْتِ فَاصْعَدْ مَعَهُ، وَإِنْ وَثَبَ فَثِبْ مَعَهُ .

759. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Marzūq narrated to us from Abū Jabalah[1966] from Ibn ʿUmar image and he [Abū Jabalah] said, “I said to him [Ibn ʿUmar], ‘We are coming to a land with weighty silver in piles and we have light silver which is in much demand; may we sell our silver for theirs?’ He said, ‘No, but sell your silver for dinars and then buy their silver, and do not part from your customer (*ṣāḥib*) for even a

span until you take it from him in full. If he climbs up[1967] above the house, then climb there with him, and if he jumps, jump with him.’”’”[1968]

وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

“We adhere to this and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٦٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا عَطِيَّةُ الْعَوْفِيُّ عَنْ أَبِي سَعِيد الْخُدْرِيِّ رَضِيَ الله عَنه عَنِ النَّبِيِّ صلى الله عَلَيْهِ وَسَلَّمَ أنه قَالَ : الذَّهَبُ بِالذَّهَبِ مِثْلٌ بِمِثْلٍ وَالْفَضْلُ رِبًا ، وَالْفِضَّةُ بِالْفِضَّةِ مِثْلٌ بِمِثْلٍ وَالْفَضْلُ رِبًا ، وَالْحِنْطَةُ بِالْحِنْطَةِ مِثْلٌ بِمِثْلٍ وَالْفَضْلُ رِبًا ، وَالشَّعِيرُ بِالشَّعِيرِ مِثْلٌ بِمِثْلٍ وَالْفَضْلُ رِبًا ، وَالتَّمْرُ بِالتَّمْرِ مِثْلٌ بِمِثْلٍ وَالْفَضْلُ رِبًا ، وَالْمِلْحُ بِالْمِلْحِ مِثْلٌ بِمِثْلٍ وَالْفَضْلُ رِبًا ، .

760. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘ʿAṭiyyah al-ʿAwfī narrated to us from Abū Saʿīd al-Khudrī ؓ from the Prophet ﷺ that he said, “Gold for gold, like for like and any excess is usury. Silver for silver, like for like, and any excess is usury. Wheat for wheat, like for like and any excess is usury. Barley for barley, like for like and any excess is usury. Dates for dates, like for like and any excess is usury. Salt for salt, like for like, and any excess is usury.”’”[1969]

وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

“We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

بَابُ الْقَرْضِ

252. LOANS

٧٦١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي رَجُلٍ أَقْرَضَ رَجُلاً
وَرِقًا فَجَاءَه بِأَفْضَلَ مِنْهَا قَالَ : الْوَرِقُ بِالْوَرِقِ أَكْرَهُ الْفَضْلَ فِيهَا حَتَّى يَأْتِيَ بِمِثْلِهَا .

761. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who lent another man silver, and that man brought him back more than it, ‘Silver for silver, and I abhor excess in it.[1970] Let him bring the same as it.’”[1971]

وَلَسْنَا نَأْخُذُ بِهذَا ، لا بَأْسَ بِهَذَا مَا لَمْ يَكُنْ شَرْطًا اشْتَرَطَه عَلَيْهِ ، فَإِذَا كَانَ شَرْطًا
اشْتَرَطَه فَلَا خَيْرَ فِيهِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللّٰهُ تَعَالَى .

“We do not adhere to this. There is no harm in this as long as it is not a precondition he laid on him. If it is a precondition he laid on him, there is no good in it. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٦٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ في الرَّجُل يُقْرِضُ الرَّجُلَ
الدَّرَاهِمَ عَلَى أَنْ يُوفِيَه بِالرَّيِّ قَالَ : أَكْرَهُ .

762. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm concerning a man who lends another man dirhams on the condition that he pay him back in Rayy.[1972] He said, ‘I abhor it.’”[1973]

وَ بِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللّٰهُ تَعَالَى .

“We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٦٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : كُلُّ قَرْضٍ جَرَّ
مَنْفَعَةً فَلَا خَيْرَ فِيهِ .

763. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Every loan which draws some benefit[1974] [to the person making the loan] has no good in it.’”

وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

“We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ الْعَقَارِ وَالشُّفْعَةِ

253. PROPERTIES AND PRE-EMPTION[1975]

٧٦٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يُقْرِضُ الرَّجُلَ الدَّرَاهِمَ عَلَى أَنْ يُوفِيَهُ بِالرَّيِّ قَالَ : أَكْرَهُ .

764. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm from Shurayḥ who said, ‘Pre-emption [belongs to those dwelling] in front of the doors.’”[1976]

وَلَسْنَا نَأْخُذُ بِهَذَا ، الشُّفْعَةُ لِلْجِيرَانِ الْمُتَلَازِقِينَ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

“We do not adhere to this. Pre-emption belongs to adjoining[1977] neighbours, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٦٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : لَا شُفْعَةَ إِلَّا فِي أَرْضٍ أَوْ دَارٍ .

765. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘There is only pre-emption in the case of land or a dwelling.’”

وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

“We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٦٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا عبدُ الْكَرِيمِ عَنِ الْمِسْوَرِ بْنِ مَخْرَمَةَ عَنْ رَافِعِ بْنِ خَدِيجٍ رَضِيَ الله عَنْه قَالَ : عَرَضَ عَلَيَّ سَعْدٌ رَضِيَ الله عَنه بَيْتًا لَهُ فَقَالَ : خُذْهُ فَإِنِّي قَدْ أُعْطِيتُ بِهِ أَكْثَرَ مِمَّا تُعْطِينِي بِهِ، وَلَكِنَّكَ أَحَقُّ لِأَنِّي سَمِعْتُ رَسُولَ اللهِ صلى الله عَلَيْهِ وَسَلَّمَ يَقُولُ : الْجَارُ أَحَقُّ بِسَقَبِهِ .

766. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘ʿAbd al-Karīm narrated to us from al-Miswar ibn Makhramah from Rāfiʿ[1978] ibn Khadīj ﵁ who said, “Saʿd ﵁ offered me a house of his and he said, ‘Take it, for I was given more[1979] for it than you give me for it, but you have more right because I heard the Messenger of Allah ﷺ saying, “The neighbour has more right to pre-emption (*saqb*).”’”’”[1980] [1981]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ الْمُضَارَبَةِ بِالثُّلُثِ ، وَالْمُضَارَبَةِ بِمَالِ الْيَتِيمِ وَمُخَالَطَتِهِ

254. PROFIT-SHARING TRANSACTIONS[1982] FOR A THIRD, AND PROFIT-SHARING TRANSACTIONS WITH THE PROPERTY OF ORPHANS, AND BECOMING PARTNERS WITH THEM

٧٦٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يُعْطِي الْمَالَ
مُضَارَبَةً بِالثُّلُثِ ، أَوِ النِّصْفِ وَزِيَادَةِ عَشَرَةِ دَرَاهِمَ قَالَ : لا خَيْرَ فِي هَذَا ، أَرَأَيْتَ لَوْ لَمْ
يَرْبَحْ دِرْهَمًا مَا كَانَ لَه ؟

767. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who gives property in a profit-sharing transaction for a third [of the profits] or a half, with an added ten dirhams,[1983] ‘There is no good[1984] in this. What would you think if he did not gain a dirham in profit, what would he have?’”[1985]

وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

“We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٦٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ عَائِشَةَ رَضِيَ الله
عَنْهَا أَنَّهَا قَالَتْ : لَوْ وُلِّيتُ مَالَ يَتِيمٍ خَلَطْتُ طَعَامَه بِطَعَامِي ، وَشَرَابَه بِشَرَابِي ، وَلَمْ
أَجْعَلْهُ بِمَنزِلَةِ الرِّجْسِ .

768. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿĀ’ishah ﵂ said, ‘If I were put in charge[1986] of the property of an orphan, I would intermix his food with my food and his drink with my drink and would not consider it the same status as an impurity.’”[1987]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٦٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي مَالِ الْيَتِيمِ قَالَ : مَا
شَاءَ الْوَصِيُّ صَنَعَ بِهِ، إِنْ رَآى أَنْ يُودِعَه أَوْدَعَهُ ، وَإِنْ رَآى أَنْ يَتَّجِرَ بِهِ لَاتَّجَرَبِه، وَإِنْ
رَآى أَنْ يَدْفَعَه مُضَارَبَةً دَفَعَه .

769. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning the property of orphans, ‘The person entrusted [with responsibility for the orphan] may do whatever he wishes to do: if he thinks he should deposit it in a safe place, he may do so, and if he thinks he should trade with it, he may trade with it, and if he thinks he should pay it over as a profit-sharing loan, he may do so.’”

وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللّٰهُ تَعَالَى .

“We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٧٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ سَعِيدِ بْنِ جُبَيْرٍ
أَنَّهُ قَالَ فِي هٰذِهِ الْآيَةِ: ﴿مَن كَانَ غَنِيًّا فَلْيَسْتَعْفِفْ وَمَن كَانَ فَقِيرًا فَلْيَأْكُلْ بِالْمَعْرُوفِ﴾
قَالَ: قَرْضًا .

770. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that Saʿīd ibn Jubayr spoke concerning this *āyah*, ‘*Those who are wealthy*[1988] *should abstain from it altogether. Those who are poor should use it sensibly and correctly*[1989]’ (Sūrat an-Nisā’: 6) and he said, ‘[...*should use it sensibly and correctly*] as a loan[1990] [which they repay later].’”

٧٧١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنِ الْهَيْثَمِ عَنْ رَجُلٍ عَنْ عَبْدِ اللّٰهِ بْنِ مَسْعُودٍ
رَضِيَ اللهُ عَنْهُ قَالَ : لَا يَأْكُلُ الْوَصِيُّ مَالَ الْيَتِيمِ شَيْئًا قَرْضًا وَلَا غَيْرَه .

771. Muḥammad said, “Abū Ḥanīfah informed us from al-Haytham from a man that ʿAbdullāh ibn Masʿūd ؓ said, ‘The person entrusted [with

responsibility for the orphan] should not consume[1991] any of the orphan’s property, neither as a loan [to be repaid later] nor in any other way.’”

وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

“We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٧٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا لَيْثُ بْنُ أَبِي سُلَيْمٍ عَنْ مُجَاهِدٍ عَنْ ابنِ مَسْعُودٍ رَضِيَ الله عَنْه قَالَ : لَيْسَ فِي مَالِ الْيَتِيمِ زَكَاةٌ .

772. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Layth ibn Abī Sulaym narrated to us from Mujāhid that Ibn Masʿūd ﷺ said, “There is no *zakāh* on the property of an orphan.”’”[1992]

وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ.

“We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

بَابُ مَنْ كَانَ عِنْدَهُ مَالٌ مُضَارَبَةً أَوْ وَدِيعَةً

255. SOMEONE WHO HAS MONEY AS A PROFIT-SHARING INVESTMENT OR A DEPOSIT HELD ON TRUST

٧٧٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الْمُضَارَبَةِ وَالْوَدِيعَةِ إِذَا كَانَتْ عِنْدَ الرَّجُلِ فَمَاتَ وَعَلَيْهِ دَيْنٌ قَالَ : يَكُونُونَ جَمِيعًا أُسْوَةَ الْغُرَمَاءِ إِذَا لَمْ تُعْرَفَا بِأَعْيَانِهِمَا الْوَدِيعَةُ وَالْمُضَارَبَةُ .

773. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a profit-sharing investment[1993] and a deposit held

on trust which a man has who then dies owing a debt, ‘They are all equal as creditors[1994] if the two of them do not recognise specifically their own cash, the deposit left on trust and the profit-sharing investment.’”[1995]

وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

“We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ الْمُزَارَعَةِ بِالثُّلُثِ وَالرُّبُعِ

256. CROP-SHARING[1996] FOR A THIRD OR A QUARTER [OF THE CROP]

٧٧٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ أَنَّهُ سَأَلَ طَاوُسًا وَسَالِمَ بْنَ عَبْدِ اللَّهِ عَنِ الزَّرَاعَةِ بِالثُّلُثِ أَوِ الرُّبعِ ، فَقَالَ : لا بَأْسَ بِهِ ، فَذَكَرْتُ ذَلِكَ لِإِبْرَاهِيمَ فَكَرِهَه ، فَقَالَ : إِنَّ طَاوُسًا لَهُ أَرْضٌ يُزَارِعُه ، فَمِن أَجلِ ذَلِكَ قَالَ ذلك .

774. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that he asked Ṭāwus and Sālim ibn ʿAbdullāh about cultivating land for a third or a quarter [of the crop] and he [Ṭāwus] said, ‘There is no harm in it,’ and so ‘I [Ḥammād] asked Ibrāhīm about that and he abhored it.[1997] He said, “Ṭāwus has land which he cultivates in crop-sharing arrangements and it was because of that he said that.”’”[1998]

قَالَ مُحَمَّدٌ : كَانَ أَبُو حَنِيفَةَ يأخذ بِقَوْلِ إِبْرَاهِيمَ ، وَنَحْنُ نَأْخُذُ بِقَوْلِ سَالِمٍ وَطَاوُسٍ ، لا نَرَى بِذَلِكَ بَأْساً .

Muḥammad said, “Abū Ḥanīfah used to adhere to the verdict of Ibrāhīm, but we adhere to the verdict of Sālim and Ṭāwus. We see no harm in that.”

٧٧٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا عبدُ الرحمنِ الأَوْزَاعِيّ عَنْ وَاصِلِ بْنِ أَبِي جَمِيلٍ عَنْ مُجَاهِدٍ قَالَ : اشْتَرَكَ أَرْبَعَةُ نَفَرٍ عَلَى عَهْدِ رَسُولِ اللَّهِ صلى الله عَلَيْهِ وَسَلَّمَ فقَالَ وَاحِدٌ : من عِنْدِي الْبِذْرُ ، وقَالَ الآخَرُ : من عِنْدِي الْعَمَلُ ، وَقَالَ الآخَرُ : من عِنْدِي الْفَدَّانُ ، وَقَالَ الآخَرُ : من عِنْدِي الأَرْضُ . قَالَ : فَأَلْغَى رَسُولُ اللَّهِ صلى الله عَلَيْهِ وَسَلَّمَ صَاحِبَ الأَرْض ، وَجعَلَ لِصَاحِبِ الْفَدَّانِ أَجْراً مُسَمًّى ، وَجَعَلَ لِصَاحِبِ الْعَمَلِ دِرْهَمًا لِكُلِّ يَوْمٍ ، وَأَلْحَقَ الزَّرْعَ كُلَّه بِصَاحِبِ الْبِذْرِ .

775. Muḥammad said, “ʿAbd ar-Raḥmān al-Awzāʿī informed us from Wāṣil ibn Abī Jamīl from Mujāhid who said, ‘Four people entered into a partnership at the time of the Messenger of Allah ﷺ and one said, “I will supply the seed.”[1999] Another said, “I will do the work.” Another said, “I will supply oxen and a plough (*faddān*).”[2000] Another said, “I will supply the land.”’ He said, ‘The Messenger of Allah ﷺ declared the [participation of the] owner of the land null and void. He appointed a specific payment for the owner of the oxen and the plough. He appointed a dirham a day for the man who opted to do the work, and he gave all of the crop to the owner of the seed.’”

بَابُ مَا يُكْرَهُ مِنَ الزِّيَادَةِ عَلَى مَنْ آجَرَ شَيْئًا بِأَكْثَرَ مِمَّا اسْتَأْجَرَه

257. WHAT IS ABHORED OF RENTING OUT SOMETHING FOR MORE THAN THAT FOR WHICH ONE RENTED IT

٧٧٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يَسْتَأْجِرُ الأَرْضَ ثُمَّ يُؤَاجِرُهَا بِأَكْثَرَ مِمَّا اسْتَأْجَرَهَا قَالَ : لا خَيْرَ فِي الْفَضْلِ إِلاَّ أَنْ يُحْدِثَ فِيهَا شَيْئًا .

776. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who rents land then himself rents it out for more than that for which he is renting it, ‘There is no good[2001] in the excess[2002] unless he himself has done something to it.’”

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

777. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Abū’l-Ḥuṣayn ʿUthmān ibn ʿĀṣim ath-Thaqafī from Ibn Rāfiʿ from his father that the Prophet ﷺ passed by a walled garden of palm-trees and it delighted him. So he said, ‘Whose is this?’ He said, ‘It is mine, Messenger of Allah, I rented it.’ He said, ‘Do not rent it[2003] with something that is from it.’”[2004]

778. Muḥammad said, “Abū Ḥanīfah informed us from ʿAbdullāh ibn Abī Ziyād from Ibn Abī Najīḥ from Ibn ʿAmr that the Prophet ﷺ said, ‘Allah has made Makkah a sanctuary (*ḥaram*) so it is forbidden (*ḥarām*) to sell its dwellings[2005] and consume the proceeds,’ and he said, ‘Whoever consumes anything of the rents of a Makkan house is only consuming a fire.’”

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him. It is abhorent to sell the land [of Makkah] but not to sell the buildings, and Allah knows best.”

◆

258. IF A SLAVE’S OWNER GIVES HIM PERMISSION TO TRADE, HE [THE OWNER] IS THE GUARANTOR

779. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm concerning a slave whose owner permits him to trade and [the slave] gets into debt and then his owner sets him free,[2006] that [the owner] must stand surety for him to the extent of [the slave’s] value, such that if there is any of the debt [the slave] owed remaining[2007] after his value [paid by his ex-owner] then the creditors seek the excess from the slave. If his owner sells him, he owes his value to the creditors, and if he sets the slave free one day, the creditors take hold of him for the extra sum of the debt remaining over his price.”[2008]

Muḥammad said, “We adhere to this and that is the verdict of Abū Ḥanīfah if the creditors permit the sale. If they do not permit it, they have the right to undo it so that the slave is sold for them for their debt, except in a case where the seller or the purchaser discharges their debt in which case the sale is permissible, and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

259. THE STANDING SURETY OF A SHARED HIRED MAN[2009]

780. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that Shurayḥ never required a guarantee of a hired man.”[2010]

Muḥammad said, “This is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him; a shared hired man does not stand surety except for his own handiwork.”

781. Muḥammad said, “Abū Ḥanīfah informed us from Bishr or Bashīr (Muḥammad was in doubt) from Abū Jaʿfar Muḥammad ibn ʿAlī that ʿAlī ibn Abī Ṭālib used not to make launderers, goldsmiths or weavers stand surety.”[2011]

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

260. ON PAWNED ITEMS, BORROWED THINGS, AND THINGS DEPOSITED FOR SAFEKEEPING OF ANIMALS AND OTHER THINGS

782. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning borrowed animals and goods – as long as the borrower does not go against [the agreement] to something other than what he had said – and the goods are stolen or he loses them or the animal dies, that he does not have to stand surety.”

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

783. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm did not require a borrower to stand surety.”

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

784. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If the item deposited as security for a debt is equal to[2012] more[2013] than what [he was lent on the basis] of it, then [the person who received the pledge] is trusted for the excess. If the item deposited as security for a debt is of less value[2014] than that which he borrowed on the basis of it, then the measure of the pawned item has been reduced from his due,[2015] and whatever is left over is due from the person[2016] who deposited the item as security for a debt.”[2017] [2018]

image

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

image

785. Muḥammad said, “Abū Ḥanīfah informed us from ʿAlī ibn al-Aqmar from Shurayḥ. [ʿAlī ibn al-Aqmar] said, ‘A man came to Shurayḥ while I was with him and said, “This person gave me his garment to dye but my house burnt down and his garment was burnt in my house.” He said, “Give him[2019] his garment.” He said, “I should give him his garment when my house has burnt down?” He said, “What do you think: if his house had burnt down, would you give up your fee?” He said, “No.”’”

image

Muḥammad said, “Abū Ḥanīfah said, ‘He does not have to stand surety for what was burnt in his house, because it was not something he himself did wrong.’”

◆

[1898] Ash-Sharīf al-Ḥusaynī said in *at-Tadhkirah*, “The correct position is that it is from Yaḥyā from ʿĀmir ash-Shaʿbī.”

[1899] When he sent him as amir to Makkah.

[1900] Binding (*taqyīd*) of a sale with two stipulations is effectively prohibited by unanimous agreement, and also with one stipulation it is not permissible because the prohibition of a sale along with a stipulation is narrated (*Lum’āt*). Sale is in itself a stipulation, so that if one makes another stipulation this would be two stipulations in one sale.

[1901] *salaf*: advance payment, is a loan, meaning that it is not permissible to sell something with the stipulation of a loan.

[1902] An-Nasā’ī narrated it by the route of ʿAbdullāh ibn ʿAmr in *as-Sunan al-kubrā* in the book on “setting slaves free”, and al-Ḥākim in the *Mustadrak*, vol.2, p.17.

[1903] Its second explanation is that he says, for example, “I will sell my slave to you for a thousand if you will sell me your slave girl for a hundred.”

[1904] That a man sells a slave for a thousand on the basis that the purchaser sells him a slave woman for a hundred.

[1905] Which is such the stipulation that he should not sell him, not dress in a robe, etc.

[1906] Ash-Shāfiʿī said that it is not permissible to sell a dog. Aṭ-Ṭaḥāwī answered the hadith in prohibition of taking the price of a dog that this was when there was the judgement on killing dogs, but that then when it was prohibited to kill dogs and permitted to make use of them for hunting etc., the prohibition on selling them and taking a price for them was abrogated.

[1907] This indicates the appearance of fruit because of the fact that in the main it has to happen [if they have been pollinated].

[1908] On his person or in his hand such as one who has been granted permission, for otherwise slaves possess nothing.

[1909] Meaning, for himself.

[1910] Al-Bukhārī narrated it from Ibn ʿUmar as a *marfūʿ* hadith under “date-crop sharing” in the chapter on “a man who has a thoroughfare or drinking water [on the land for sale],” and Muslim under “sales” in the chapter on “someone who sells date palms on which there is fruit.”

[1911] Since in returning it there is hardship for the seller because it left his possession in a sound state and returned with a defect and so he refused. One has to repel any harm from him and so specifically one has to return with a shortcoming unless the seller is content to take it with its defect because he is content with the harm.

[1912] *arsh* is that which the purchaser takes from the seller if he discovers a defect in the object sold.

[1913] *ʿuqr*: compensatory dowry, is that which a woman receives for sexual intercourse performed because of a mistaken understanding.

[1914] Meaning the seller’s child.

[1915] On the assumption that they were all three successive owners of the slave woman.

[1916] Meaning that he examined their states.

[1917] Abū Yūsuf narrated it on p.159.

[1918] Ibn Abī Shaybah narrated the like of it in the *Muṣannaf*, vol.4, p.105.

[1919] *Salam*: advance payment, lexically it is from *taslīm*: to deliver or to hand over. In the usage of the *fuqahā'* it is an expression denoting selling something on the basis that it will be a debt against the seller with specific preconditions in the *Sharīʿah*. It is said something to be delivered later for something paid immediately such that the price is paid immediately and the object for which the price is paid is paid after a period of time, and it is permissible by unanimous agreement. The word *salaf* is also used with the same meaning (*al-Lumʿāt*). *Salam* is permissible in things which are measured by volume, weighed and measured by length and width, and similarly with things which are counted which are not very far apart from each other.

[1920] In the sense of measured by volume. – Trans.

[1921] Meaning to sell it [to be paid] at a specific time.

[1922] Abū Yūsuf narrated it on p.187.

[1923] Abū Yūsuf narrated it on p.188.

[1924] Our original text had *ʿaṭā'* "the payment of the stipend" but our typed version has as above "until the cutting [of the fruit] which makes more sense, as one would not make an advance payment *before* receiving the stipend. – Trans.

[1925] The cutting of crops or fruit.

[1926] Abū Yūsuf narrated it on p.188.

[1927] Fruits here are *thamar*, meaning the fruits of trees such as olives, etc., whereas fruit elsewhere is *fākihah*, meaning sweet fruit in general. – Trans.

[1928] Abū Yūsuf narrated it on pp.187-8.

[1929] Meaning the time of the fruit, i.e., an advance payment is not permissible until the thing being paid for in advance does exist from the time of the contract until the time payment falls due, so much so that even if it is non-existent at the time of the contract and exists at the time payment falls due, or vice-versa, or it is non-existent in between that, then it is not permissible.

[1930] Meaning that it is not permissible. The refutation of permissibility [a second time] is by way of emphasis.

[1931] Al-Bakrī is a mistake for al-Yashkurī which is the correct name as is mentioned by al-Bukhārī in his *Tārīkh*.

[1932] Zayd took some of what he had paid in advance for, i.e., the young female camels, from ʿItrīs.

[1933] Asking him to be kind to him and to grant him a delay.

[1934] Abū Yūsuf narrated it on pp.186-7.

[1935] Lexically it means something retained for whatever reason, and in the *Sharīʿah* it means to make something to be retained for a due which it is possible to pay back in full for the pledged item such as debts.

[1936] Because the Prophet bought food from a Jew for payment at a later date and pawned his shield with him, with which Ibrāhīm argues the permissibility of pawning something in the case of making an advance payment because of the permissibility of surety for it because of the fact that it is a receipt as is something pawned.

[1937] Abū Yūsuf narrated it on p.188.

[1938] Abū Yūsuf narrated it on p.187.

[1939] Abū ʿUmar not Abū ʿAmr and I think he is Dharr ibn ʿAbdullāh al-Marhabī because his *kunyah* was Abū ʿUmar.

[1940] Meaning, the term [agreed upon].

[1941] The cancellation of something for which one paid in advance is permissible because it is annulment, and it is similar in the case of a part of it.

[1942] Abū Yūsuf narrated it on p.186.

[1943] Abū Yūsuf narrated it on p.187.

[1944] Abū Yūsuf narrated it on p.187.

[1945] The negation is here in the sense of prohibition because it is more satisfactory in a rhetorical sense. Bidding on top of another's bid is only deplored in the case when the seller's heart inclines to the price that the purchaser has named. If his heart does not incline and he is not pleased with it there is no harm in someone else buying it at a higher price.

[1946] The origin of *najash* is to drive people away from something to something else. [Thus, *tanājush* means to bid against someone not really intending to buy the item but merely to up the price, or to praise it in front of someone, deliberately luring them into the purchase. – Trans.]

[1947] *tabāyʿū bi alqā' al-ḥajar* is taken to be a form of *munābadhah*, which is forbidden in itself, in which traders cast garments to each other.

[1948] To overturn it in order to empty out what is in it.

[1949] Her bowl and her vessel. This is a metaphor for a co-wife's causing her fellow-wife's right due to her from her husband to incline towards herself by her asking [him] for her divorce.

[1950] Al-Bukhārī narrated it partially from a hadith of Abū Hurayrah under "sales" in the chapter on "there is no sale on top of one's brother's sale," and Muslim partially under "sales" in the chapter on "the prohibition of a man selling on top of his brother's sale."

[1951] *kurāʿ* literally means that which is below the ankle in animals. Then horses in particular were given this as a name. [Imam] Muḥammad said that *kurāʿ* are horses, mules and donkeys.

[1952] Presumably a prohibition of his taking booty seized from the enemy back to them to sell it to them. – Trans.

[1953] Abū Yūsuf narrated it on p.195.

[1954] Because the disobedience does not reside in it itself but on the contrary after its alteration.

[1955] And in the *Musnad* of al-Imam al-Aʿẓam from Muḥammad ibn Qays there is that he said, “I asked Ibn ʿUmar,” or “Abū Kathīr asked him” and then he mentioned the hadith.

[1956] *shuḥūm* is the fat around the kidneys, the stomach and intestines. – Trans.

[1957] Abū Yūsuf narrated it on pp.227-8.

[1958] Ath-Thaqafī the Companion. His personal name is not known.

[1959] Abū Yūsuf narrated it on p.228.

[1960] *ājām* is the plural of *ajam* meaning a thicket.

[1961] This relates particularly to game and bamboo which are permissible.

[1962] Meaning before it has been hunted and caught, then it is not permissible to sell it since that is the sale of something which one does not have in one’s possession.

[1963] Meaning that if it is in the state such that it is caught without hunting then it is permissible to sell it because one has it in one’s possession and is able to deliver it.

[1964] So named for Khusraw Shāh, one of the kings of Persia. – Trans.

[1965] Abū Yūsuf narrated it on p.183.

[1966] Abū Jabalah is a mistake for Jabalah ibn Suḥaym at-Taymī (*Iʿlā’ as-sunan*).

[1967] Showing that exchange before separating in monetary exchanges is a right, even if standing without parting does not prevent the continuance of the contract.

[1968] Abū Yūsuf narrated it on pp.184-5.

[1969] Muslim narrated it under “date-crop sharing” in the chapter on “selling food, like for like.”

[1970] He said this out of taking scrupulous pains because there is no dispute concerning the permissibility of discharging a debt with something qualitatively better than that lent to one without any stipulations.

[1971] Abū Yūsuf narrated it on p.184.

[1972] He repays the loan and as an extra transports the coins to Rayy.

[1973] Abū Yūsuf narrated it on p.184.

[1974] The extra benefit is usury.

[1975] The option to purchase a property if and when it is put up for sale.

[1976] Abū Yūsuf narrated it on p.167.

[1977] The *fatwā* is issued according to this, that pre-emption belongs to adjoining neighbours who are those whose plots of land connect with each other, even if their doors are on different streets at some distance from each other.

[1978] Al-Ḥārithī said, “The *ṣaḥīḥ* is that he is Abū Rāfiʿ the *mawlā* of the Messenger of Allah .”

[1979] In some narrations, there is “Take it for seven hundred because I was given eight hundred for it.”

[1980] *saqb* means pre-emption, and has the sense of “close.” The hadith means that the neighbour has more right to pre-emption if he is an adjoining neighbour.

[1981] Al-Bukhārī narrated it under “pre-emption” in the chapter on “offering [the right of] pre-emption to the one to whom it is due before selling.”

[1982] *muḍārabah* denotes a contract between two people to go into a partnership in trade [not manufacture] with the wealth of one of the two parties and the work of the other.

[1983] One of its stipulations is that the profit should be shared between them, neither of them deserving a specified dirham of the profit. If someone specifies some extra amount then the contract is invalid, and the man who did the work receives a wage of someone the like of him.

[1984] Meaning that it is not valid.

[1985] Abū Yūsuf narrated it on p.160.

[1986] When “*Do not go near the property of orphans*...” (Sūrat al-Isrā’: 34) was revealed, those who had orphans in their care went and separated their food and drink and began to show preference to them in terms of food and would keep it for them until they ate or until it became rotten, and that became extremely difficult for them. Then Allah revealed, “*They will ask you about the property of orphans. Say, ‘Managing it in their best interests is best.’ If you mix your property with theirs, they are your brothers*” (Sūrat an-Nisā’: 218).

[1987] Abū Yūsuf narrated the like of it on p.174.

[1988] Meaning, those of the guardians who have property should withhold themselves from making use of orphans’ wealth.

[1989] *bi’l-maʿrūf* means according to need.

[1990] As to whether it can be considered a wage, ash-Shāfiʿī took that position, but our school is that it cannot, meaning that one uses orphans’ property according to need and considering it as a loan.

[1991] Meaning, if one has no need of it.

[1992] Abū Yūsuf narrated it on p.92.

[1993] Paid to the active partner as a trust in his possession, and for that reason its ruling is that it is a deposit.

[1994] *ghuramā’* ordinarily means debtors but sometimes means creditors. – Trans.

[1995] Abū Yūsuf narrated it on p.160.

[1996] A contract for cultivation in return for a portion of the crop, which is invalid according to Abū Ḥanīfah, but the two of them [Muḥammad and Abū Yūsuf] said that it is permissible. In *Iʿlā’ as-*

sunan there is, “Whoever investigates the traditions cannot fail to see that some of the narrators from Rāfiʿ restricted the types which are prohibited and made clear the reason for the prohibition which is that it is feared that the crops may perish and that is an uncertain transaction in exchange that necessarily means that it is invalid. So if we correlate all of the different narrations from Rāfiʿ it becomes necessary to interpret the traditions relating to the prohibition to refer to the case where the crop-sharing takes place on invalid stipulations such as the stipulation of streams and rivers etc. The Prophet forbade crop-sharing with such stipulations because they are unknown. When the shares are known, such as a half or a third, and there are no invalid stipulations, crop-sharing is permissible.”

[1997] There is no proof in this of the invalid nature of crop-sharing for a third or a quarter according to the Imam. The limit is that he abhored it out of scrupulousness just as Ibn ʿUmar gave it up out of scrupulousness, and in that Ibrāhīm an-Nakhaʿī followed him.

[1998] Abū Yūsuf narrated it on p.188.

[1999] Because of this those who regard crop-sharing as permissible do so, and they say that with these attributes it is invalid because of what it contains of stipulation on one of the two parties of yoked oxen and the implements of cultivation, and because of what is in it of paying the seed as a part of the crop-sharing contract in isolation, each one of which invalidates the contract.

[2000] *fadān* and *faddān* cover a number of meanings including the bull or the pair of oxen, and the plough and the equipment necessary for ploughing. – Trans.

[2001] Aḥmad stated that it is permissible for the lessee to rent out the leased property for the same rent and a bit more and ash-Shāfiʿī gave that verdict. It is narrated from Aḥmad, “If he has done something extra with the original then it is permissible for him to rent [that extra] out but otherwise it is not permissible to charge extra. If he does so, then he should give the extra away as *ṣadaqah*,” and Abū Ḥanīfah gave that verdict because he profits by that for which he does not [directly] stand surety.

[2002] It is authentically transmitted from Ibrāhīm that he said, “The excess is rejected; it is usury.”

[2003] This gives the sense that the *musāqah* [contract in which a man tends and waters palm-trees for a share of the crop] is also not permissible just like the crop-sharing contract (*muzāraʿah*) and this is the position of Abū Ḥanīfah, but Abū Yūsuf, Muḥammad and the three Imams took contrary positions. *Musāqah* is from the verb “to water” (*saqā*) which is the act of tending trees for a share of their produce. The discussion concerning this is the same as the discussion concerning crop-sharing.

[2004] Abū Yūsuf narrated it on pp.189-90.

[2005] *ribāʿ* is the plural of *rabʿ* meaning a house. Abū Ḥanīfah and Muḥammad said that it is not permissible to sell the land of Makkah nor to rent it out. Abū Yūsuf said that there is no harm in buying or renting out its land, and he regarded it as being the same as all other cities, to which view aṭ-Ṭaḥāwī inclined in that he mentioned that at the end of the chapter [concerning that in his book].

[2006] For setting him free is permissible because his authority (*mulk*) over him continues and he is responsible for as much as his price to his creditors because he spoiled that which relates to their trade right and [he has spoiled] their [right to] compensation from his price [if he were sold as a slave].

[2007] Meaning that whatever debts remained over are demanded back from him after his being set free because the debt is his responsibility, and nothing is due from the master except as much as the measure that he spoiled as a security (*ḍamān*) so that the remainder remains due from him as it had done.

[2008] Ibn Abī Shaybah narrated the like of it in the *Muṣannaf* in, vol.4, p.387.

[2009] *al-ajīr al-mushtarak: The hired man [that is shared in;* i.e.*] whose work no one has for himself exclusively of others, but who works for everyone who repairs to him for work, like the tailor in the sitting places of the markets; or who works for whom he pleases*. (Lane's *Arabic English Lexicon*.) – Trans.

[2010] A shared hired man is someone who does not get his wage until he works, such as the dyer and bleacher, and in whose hands the goods are a trust such that if then they perish nothing (the text has *laka* which I take as a mistake for *lā*. Trans.) is guaranteed according to Abū Ḥanīfah. Abū Yūsuf and Muḥammad said that he must stand surety for it except for some exceptional circumstance such as overwhelming fire or an enemy that takes from him by force. The dedicated hired man [employed by only one person rather than available for hire by everyone] is the one who deserves a wage by surrendering himself for a period of time even if he does not work, and he is not required to stand surety for that which is spoiled while in his possession nor that of his work which is spoiled.

[2011] Abū Yūsuf narrated it on p.158.

[2012] Thus it is in the original but it is not its meaning here.

[2013] Meaning, than the debt for which he put something in pawn.

[2014] Meaning, less than the debt.

[2015] From the due of the one who receives the pledge.

[2016] Because the pledge is ensured for the lesser of two things: its price or the debt. Thus if the pledge perishes in the possession of the person who received it as a pledge, and the value of the pledge and the debt are equal then it is that the person who received the pledge becomes the one who discharges the debt, in effect. If the value of the pledge is more than the debt then the extra is a trust with the man who received the pledge. If it is less than the debt, then that much of the debt is discharged and the man who received the pledge returns to [the man who pledged] for the extra amount.

[2017] The person who receives a pledge which is of more value than the sum of money lent is trusted to hand over the surplus if the person who took the loan does not repay and the former claims the pledged item. However, if the pledge is of less value than the money borrowed using it as security then if the borrower does not repay the loan and the person who received the pledge claims it as his, the borrower has to pay him – Trans.

[2018] Abū Yūsuf narrated it on p.156.

[2019] The upshot of the discussion is that nothing is established from the Companions on this matter, neither in the sense of making someone stand surety or otherwise, which is only established of the Followers. Thus from Shurayḥ there is that he made one who whitened clothes stand surety, and from ʿAṭā’ there is that he considered there to be surety due from a manufacturer or an employee. Ash-Shāfiʿī chose the verdict of Shurayḥ and Abū Yūsuf and Muḥammad took that position, but Abū Ḥanīfah took the verdict of ʿAṭā’.

LEGAL JUDGEMENTS

بَابُ مَنِ ادَّعَى دَعْوَى حَقٍّ عَلَى رَجُلٍ

261. SOMEONE WHO MAKES A CLAIM OF A RIGHT FROM ANOTHER MAN

٧٨٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ :الْبَيِّنَةُ عَلَى الْمُدَّعِي ، وَالْيَمِينُ عَلَى الْمُدَّعَى عَلَيْهِ ، وَكَانَ لا يَرُدُّ الْيَمِينَ .

786. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Clear evidence is required of a claimant, and to swear an oath is the right of the person against whom the claim is made,’[2020] and he would never return the [right to swear an] oath [to a claimant].”[2021] [2022]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ مَنْ أَحْدَثَ فِي غَيْرِ فِنَائِهِ فَهُوَ ضَامِنٌ

262. WHOEVER DOES SOMETHING OUTSIDE OF HIS FORECOURT[2023] IS RESPONSIBLE FOR IT

٧٨٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يَجْعَلُ فِي حَائِطِهِ الصَّخْرَةَ فَيَسْتُرُ بِهَا الْحَمُولَةَ ، أَوْ يُخْرِجُ الْكَنِيفَ إِلَى الطَّرِيقِ ، قَالَ : يَضْمَنُ كُلَّ شَيْءٍ إِذَا أَصَابَ هَذَا الَّذِي ذَكَرْتَ لِأَنَّهُ أَحْدَثَ شَيْئًا فِيما لا يَمْلِكُ، وَ لا يَمْلِكُ سَمَاءَه فَقَدْ ضَمِنَ مَا أَصَابَ .

787. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who puts a rock in his wall, and by it concealing a load-bearing camel[2024] or he makes a lavatory[2025] empty on to a pathway, ‘If what you mention happens, he is responsible for everything, because he produced something outside of his property, and without possessing its forecourt,[2026] and so he is responsible for what happens.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

[2020] This is substantially the same as the most famous narration of this hadith on this matter. See note 2022 below. – Trans.

[2021] This is probably the statement of Ḥammād or Muḥammad, may Allah have mercy on them both.

[2022] Ibn ʿAbbās narrated it in a *marfūʿ* hadith which al-Bukhārī narrated under “the commentary on Sūrah Āl ʿImrān” in the chapter on “*Those who sell Allah’s contract…*” (Sūrah Āl ʿImrān 76), and Muslim under “judgements” in the chapter on “the oath is due to the one against whom a claim is made.”

[2023] *finā’* is the forecourt, the open space in front of a house, and sometimes to the sides of a house that belong to the house.

[2024] Those beasts on which people carry burdens whether or not they have loads or not such as riding beasts.

[2025] *kanīf* is a lavatory. This tradition shows that killing through some causative means necessarily requires liability unless he stipulates about it that it should be as an offence against the law such as digging a well on someone else's property.

[2026] It is *samā'* in the original and the *samā'* of anything is the highest part of it, but it is probably *finā'* which is the open space in front of a house.

SACRIFICES AND SLAUGHTERING ANIMALS

بَابُ الْأُضْحِيَّةِ وَإِخْصَاءِ الْفَحْلِ

263. THE SACRIFICE OF *ʿĪD AL-AḌḤĀ*, AND CASTRATION[2027] OF MALE ANIMALS

٧٨٨ - مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : الْأُضْحِيَّةُ وَاجِبَةٌ عَلَى أَهْلِ الْأَمْصَارِ مَا خَلا الْحَاجَّ .

788. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, 'The sacrifice of *ʿĪd al-Aḍḥā* is incumbent on people of the major cities[2028] except for the people on Ḥājj.'"[2029]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

٧٨٩ - مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : الْأَضْحَى ثَلاثَةُ أَيَّامٍ : يَوْمُ النَّحْرِ ، وَيَوْمَانِ بَعْدَهُ .

789. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, 'The *Aḍḥā* is three days:[2030] the day of sacrifice and the two days after it.'"

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٩٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا الْهَيْثَمُ عَنْ عَبْدِ الرحمن بن سَابِطٍ : أَنَّ النَّبِيَّ صلى الله عَلَيْهِ وَسَلَّمَ ضَحَّى بِكَبْشَيْنِ أَمْلَحَيْنِ ، ذَبَحَ أَحَدَهُمَا عَنْ نَفْسِهِ ، وَ الآخَرَ عَمَّن قَالَ : لا إِلَهَ إِلاَّ الله ، مُحَمَّدٌ رَسُولُ اللَّهِ .

790. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Al-Haytham narrated to us from ʿAbd ar-Raḥmān ibn Sābiṭ that the Prophet ﷺ slaughtered two piebald[2031] rams for *Aḍḥā*: he sacrificed one for himself and the other on behalf of whoever says, ‘There is no god but Allah, Muḥammad is the Messenger of Allah.’”

٧٩١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ كِدَام بْنِ عَبْدِ الرَّحمن عَنْ أَبِي كِبَاشٍ أنه سَمِعَ أَبَا هُرَيْرَةَ رَضِيَ الله عَنْه يَقُولُ : نِعْمَ الأُضْحِيَّةُ الْجَذَعُ السَّمِينُ من الضَّأْنِ .

791. Muḥammad said, “Abū Ḥanīfah informed us from Kidām ibn ʿAbd ar-Raḥmān that Abū Kibāsh heard Abū Hurayrah ﵁ saying, ‘How excellent an *Aḍḥā* sacrifice is a fat six-month old[2032] sheep.’”[2033]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٩٢– مُحَمَّدٌ قَالَ : حَدَّثَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا مُسْلِمٌ الأَعْوَرُ عَنْ رَجُلٍ عَنْ عليٍّ بْنِ أَبِي طَالِبٍ رَضِيَ الله عَنْه قَالَ : الْبَقَرَةُ تُجْزِىءُ عَنْ سَبْعَةٍ يُضَحُّونَ بِهَا .

792. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Muslim al-Aʿwar narrated to us from a man that ʿAlī ibn Abī Ṭālib ﵁ said, “A

cow suffices seven who sacrifice it as an *Aḍḥā* sacrifice.”””

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٩٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يُطْعِمُ أُضْحِيَّتَهُ، وَلَا يَأْكُلُ مِنْهَا شَيْئًا ، قَالَ : لَا بَأْسَ بِهِ .

793. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who feeds others with his *Aḍḥā* sacrifice and does not eat any of it himself, ‘There is no harm in it.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٩٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الْأُضْحِيَّةِ يَشْتَرِيهَا الرَّجُلُ وَهِيَ صَحِيحَةٌ : ثُمَّ يَعْرِضُ لَهَا عَوَرٌ أَوْ عَجَفٌ ، أَوْ عَرَجٌ قَالَ : تُجْزِئُهُ إِنْ شَاءَ اللَّهُ.

794. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning an *Aḍḥā* sacrifice a man buys that is healthy and which then loses an eye or becomes lean and emaciated or lame, ‘It will suffice him inshā’Allāh.’”

قَالَ مُحَمَّدٌ : وَلَسْنَا نَأْخُذُ بِهَذَا ، لَا تُجْزِئُ إِذَا عَوِرَتْ ، أَوْ عَجِفَتْ عَجَفًا لَا تُنْقِي ، أَوْ عَرِجَتْ حَتَّى لَا تَسْتَطِيعَ أَنْ تَمْشِيَ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We do not adhere to this. It will not suffice if it is one-eyed or becomes so emaciated[2034] that it does not have any bone marrow left[2035] or that it is so lame that it is not able to walk, and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٩٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : لا بَأْسَ أَنْ تَشْتَرِيَ بِجِلْدِ أُضْحِيَّتِكَ مَتَاعًا ، وَلَا تَبِيعُه بِدَرَاهِمَ ، قَالَ إِبْرَاهِيمُ : أَمَّا أَنَا فَأَتَصَدَّقُ بِجِلْدِ أُضْحِيَتِي .

795.[2036] Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘There is no harm in your using the hide of your *Aḍḥā* sacrifice to buy goods, but do not sell it for dirhams.’ Ibrāhīm said, ‘As for me, I give the hide of my *Aḍḥā* sacrifice away as *ṣadaqah*.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٩٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الْجَذَعِ مِن الضَّأْنِ يُضَحِّي قَالَ يُجْزِئُ ، وَالْمُثَنَّى أَفْضَلُ .

796. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm concerning the six-month old sheep as an *Aḍḥā* sacrifice that he said, ‘It suffices, but an older sheep[2037] is better.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٩٧– مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : سُئِلَ إِبْرَاهِيمُ عَنِ الْخَصِيِّ وَالْفَحْلِ أَيُّهِمَا أَكْمَلُ لِلأُضْحِيَّةِ ؟ فَقَالَ : الْخَصِيُّ لأَنَّهُ إِنَّمَا طُلِبَ بِذَلِكَ صَلاحُه .

797. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm, and he [Ḥammād] said, ‘Ibrāhīm was asked whether a castrated animal or an uncastrated was better for *Aḍḥā* sacrifice and he said, ‘The castrated, because they only seek to improve it by doing that.’”

قَالَ مُحَمَّدٌ : أَسْمَنُهُمَا وَأَقْصَدُهُمَا خَيْرُهُمَا ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “The fatter sheep and the one with more marrow is best, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٩٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : لا بَأْسَ بِإِخْصَاءِ الْبَهَائِمِ إِذَا كَانَ يُرَادُ بِهِ صَلاحُهَا .

798. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘There is no harm in castrating animals[2038] if one intends to improve them by that.’”[2039]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٧٩٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّهُ كَانَ يَكْرَهُ أَنْ يُذْكَرَ اسْمُ إِنْسَانٍ مَعَ اسْمِ اللَّهِ عَلَى ذَبِيحَتِهِ ، أَنْ يَقُولَ : بِسْمِ اللَّهِ تَقَبَّلْ من فُلانٍ .

799. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm used to abhor[2040] mentioning the name of a human being along with the name of Allah in one’s *Aḍḥā* sacrifice, by saying, ‘In the name of Allah; accept this from so-and-so.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

◆

بَابُ الذَّبَائِحِ

264. SLAUGHTERING FOR MEAT

٨٠٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ يزيدَ بنِ عبدِ الرحمن عَنْ رَجُلٍ عَنْ جابرٍ رَضِيَ الله عَنْه قَالَ : فِي قَلْبِ كُلِّ مُسْلِمٍ اسْمُ التَّسْمِيَةِ سَمَّى أَوْ لَمْ يُسَمِّ .

800. Muḥammad said, "Abū Ḥanīfah informed us from Yazīd ibn ʿAbd ar-Raḥmān from a man that Jābir ؓ said, 'In every Muslim's heart the Name is used in the naming whether he pronounces the Name or not.'"[2041]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى إِذَا تَرَكَ التَّسْمِيَةَ نَاسِيًا .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him, if the person leaves out the Name because of forgetfulness."

٨٠١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ رجلٍ عَنْ جابرٍ رَضِيَ الله عَنْه قَالَ : زَكوةُ كُلِّ مُسْلِمٍ حِلَّتُه . يَعْنِي بِذَلِكَ أَنَّ الرَّجُلَ يَذْبَحُ وَيَنْسَى أَنْ يُسَمِّيَ ، أَنَّه لا بَأْسَ بِأَكْلِ ذَبِيحَتِه .

801. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm from a man that Jābir ؓ said, 'The slaughtering of every Muslim is his making [the meat] *ḥalāl*,' meaning that if a man

slaughters and forgets to say the Name, there is no harm in eating the meat he has slaughtered.'"

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

٨٠٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنِ الْهَيْثَمِ عَنْ عامرِ الشَّعْبِيِّ قَالَ : أَصَابَ رَجُلٌ من بَنِي سَلِمَةَ أَرْنَبًا بِأُحُدٍ ، فَلَمْ يَجِدْ سِكِّينًا فَذَبَحَهَا بِمَرْوَةٍ . فَسَأَلَ النَّبِيَّ صلى الله عَلَيْهِ وَسَلَّمَ عَنْ ذَلِكَ ، فَأَمَرَه بِأَكْلِهَا .

802. Muḥammad said, "Abū Ḥanīfah informed us from al-Haytham that ʿĀmir ash-Shaʿbī said, 'A man of Banī Salamah caught a rabbit on Uḥud, but could not find a knife so he slaughtered it with a sharp-edged stone.[2042] He asked the Prophet ﷺ about that and he told him[2043] to eat it.'"

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ و وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

٨٠٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ عَلْقَمَةَ قَالَ : اذْبَحْ بِكُلِّ شَيْءٍ أَفْرَى الْأَوْدَاجَ وَأَنْهَرَ الدَّمَ مَا خَلَا السِّنَّ ، وَالظُّفْرَ ، وَالْعَظْمَ ، فَإِنَّهَا مُدَى الْحَبَشَةِ .

803. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿAlqamah said, 'Slaughter with anything which severs the jugular veins and makes the blood flow, apart from teeth, nails[2044] and bones, because they are the butcher's knives of the Abyssinians.'"[2045]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٠٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا عَبْدُ الْمَلِكِ بْنُ أَبِي بَكْرٍ عَنْ نافع عَنْ ابن عُمَرَ رَضِيَ الله عَنْهما قَالَ : أَتَى كَعْبُ بْنُ مَالِكٍ رَضِيَ الله عَنه النَّبِيَّ صلى الله عَلَيْهِ وَسَلَّمَ، فَسَأَله عَنْ رَاعِيَةٍ لَهُ كَانَتْ فِي غَنَمِه ، فَتَخَوَّفَتْ عَلَى شَاةٍ الْمَوْتَ ، فَذَبَحَتْهَا بِمَرْوَةٍ ، فَأَمَرَه النَّبِيُّ صلى الله عَلَيْهِ وَسَلَّمَ بِأَكْلِهَا .

804. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘ʿAbd al-Mālik ibn Abī Bakr narrated to us from Nāfiʿ that Ibn ʿUmar ؓ said, “Kaʿb ibn Mālik ؓ came to the Prophet ﷺ and asked him about a shepherdess of his who had been among his sheep and goats, and who was fearful that a sheep was close to death and slaughtered it with a sharp-edged stone. The Prophet ﷺ told him to eat it.”’”[2046]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٠٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا سَعِيدُ بْنُ مَسْرُوقٍ عَنْ عَبَايَةَ بْنِ رِفَاعَةَ عَنْ النَّبِيِّ صلى الله عَلَيْهِ وَسَلَّمَ أَنَّ بَعِيرًا من إبِلِ الصَّدَقَةِ نَدَّ ، فَطَلَبُوهُ، فَلَمَّا أَعْيَاهُمْ أَنْ يَأْخُذُوهُ رَمَاهُ رَجُلٌ بِسَهْمٍ، فَأَصَابَ مَقْتَلَه فَقَتَلَه، فَسَأَلَ النَّبِيَّ صلى الله عَلَيْهِ وَسَلَّمَ عَنْ أَكْلِه، فقَالَ : إنَّ لَهَا أَوَابِدَ كَأَوَابِدِ الْوَحْشِ ، فَإِذَا أَحْسَسْتُمْ مِنْهَا شَيْئًا من هَذَا فَاصْنَعُوا بِه كَمَا صَنَعْتُمْ بِهَذَا ، ثُمَّ كُلُوهُ .

805. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Saʿīd ibn Masrūq narrated to us from ʿAbāyah ibn Rifāʿah from the Prophet ﷺ that one of the camels of the *zakāh* fled. They went looking for it, and when it had worn them out trying to catch it, a man shot it

with an arrow and struck it, killing it. He asked the Prophet ﷺ about eating it, and he said, “There are wild [domestic animals] among these that shy from human beings just as wild[2047] animals do, so when you sense anything of such a nature in them, do as you have done with this one, and then eat it.”””[2048] [2049]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تعال.

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٠٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ سَعِيدِ بْنِ مسروقٍ عَنْ عَبَايَةَ بْنِ رِفَاعَةَ عَنْ ابنِ عُمَرَ رَضِيَ الله عَنْهما أَنَّ بَعِيرًا تَرَدَّي فِي بِئْرٍ بِالْمَدِينَةِ ، فَلَمْ يُقْدَرْ عَلَى منحرِه، فَوُجِئَ بِسِكِّينٍ من قِبَلِ خَاصِرَتِه حَتَّى مَاتَ ، فَأَخَذَ مِنْهُ ابنُ عُمَرَ رَضِيَ الله عَنْهما عَشِيرًا بِدِرْهَمَيْنِ.

806. Muḥammad said, “Abū Ḥanīfah informed us from Saʿīd ibn Masrūq from ʿAbāyah ibn Rifāʿah from Ibn ʿUmar ؓ that a camel fell into a well in Madīnah and it was not possible to slaughter it by the method of *naḥr*.[2050] So it was stabbed with a knife in its flank until it died. Ibn ʿUmar ؓ took a tenth part for two dirhams.”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعالَى.

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٠٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الْبَعِيرِ يَتَرَدَّى فِي بِيرٍ قَالَ : إِذَا لَمْ يُقْدَرْ عَلَى مَنْحَرِهِ فَحَيْثُ مَا وُجِئَتْ فَهُوَ مَنْحَرُه.

807. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a camel that falls in a well, ‘If it is not

possible to slaughter it properly, then wherever it is stabbed, that is [equivalent to] slaughtering it.'"

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

◆

بَابُ زَكَاةِ الْجَنِينِ وَالْعَقِيقَةِ

265. SLAUGHTERING A FOETUS, AND THE *ʿAQĪQAH*[2051]

٨٠٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : لا تَكُونُ زَكوةُ نَفْسٍ زَكوةَ نَفْسَيْنِ يَعْنِي أَنَّ الْجَنِينَ إِذَا ذُبِحَتْ أُمُّه لَمْ يُؤْكَلْ حَتَّى يُدْرَكَ زَكَاتَه .

808. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, 'The slaughter of one creature (*nafs*)[2052] cannot be the slaughter of two,' meaning that if the mother of a foetus is slaughtered, it may not be eaten until it is itself slaughtered."

قَالَ مُحَمَّدٌ : وَلَسْنَا نَأْخُذُ بِهَذَا ، زَكوةُ الْجَنِينِ زَكوةُ أُمِّه إِذَا تَمَّ خَلْقُه ، وقَالَ أَبُو حَنِيفَةَ بِقَوْلِ إِبْرَاهِيمَ هَذَا .

Muḥammad said, "We do not adhere to this. The slaughter of the mother is also the slaughter of the foetus if its form is complete, but Abū Ḥanīfah ruled on the basis of this verdict of Ibrāhīm."

٨٠٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : كَانَتِ الْعَقِيقَةُ فِي الْجَاهِلِيَّةِ ، فَلَمَّا جَاءَ الإِسْلامُ رُفِضَتْ .

809. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘There used to be ʿ*aqīqah* in the Jāhiliyyah, but when Islam came it was rejected.’”[2053] [2054]

٨١٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا رَجُلٌ عَنْ مُحَمَّدِ بْنِ الْحَنَفِيَّةِ :
أَنَّ الْعَقِيقَةَ كَانَتْ فِي الْجَاهِلِيَّةِ ، فَلَمَّا جَاءَ الْإِسْلَامُ رُفِضَتْ .

810. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘A man narrated to us from Muḥammad ibn al-Ḥanafīyyah that there used to be ʿ*aqīqah* in the *Jāhiliyyah* but when Islam came it was rejected.’”[2055]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

[2027] The castration referred to is removal of the testicles and does not refer to removal of the penis, which is considered mutilation. – Trans.

[2028] Meaning “residents.”

[2029] Because he is a traveller not because he is on Hajj because Hajj is not a valid excuse with respect to what is due from residents.

[2030] This tradition has the standing of a hadith ascribed to the Prophet ﷺ with a chain of transmission (*marfūʿ*) since things like this are not said from opinion.

[2031] That one which has layers of black throughout its white wool.

[2032] *al-jadhaʿ* is a sheep that is more than six-months old such that if it is very large and if were mixed up with sheep more than a year old it would resemble them to someone looking from afar.

[2033] *ḍa’n* is that [sheep] which has a rump. [It is not clear what Ḥāfiẓ Riyāḍ means by this. Lane has: “[*sheep;*] *such as have wool,*” meaning simply sheep as opposed to goats. – Trans.]

[2034] Meaning that it weakens and its fat goes.

[2035] It has no marrow because of its extreme emaciation. The basic principle is that immoderate defects are an obstacle but minor ones are not.

[2036] There are two basic principles here: first, it is permissible to make use of the skin of an *ʿĪd* sacrificial animal by retaining it in one’s possession; second, that the judgement on a substitute is the same as the judgement on that for which it is substituted, so that if the person making the sacrifice exchanges the skin of his sacrifice for that which he makes use of itself in his house along with its continuing usage such as a waterskin or a bag then that is permissible from legal preference (*istiḥsān*) and it is regarded the same as making use of the skin itself. If he exchanges it for something which one only makes use of by consuming it such as dirhams or dinars then he has to give its value away as *ṣadaqah*.

[2037] *muthannā* is held by some to be a two year old or even a three year old, but in any case it is one that is older than six months.

[2038] As for the castration which is prohibited it is castration which cuts off progeny by castrating all of the penis, but as for castration of some then that is not prohibited. There are hadith which state clearly the permissibility of sacrificing castrated animals for the *ʿĪd al-Aḍḥā* which means that the castration is not a defect in the animal but increases the meat in fatness and wholesomeness (*I ʿlā’ as-sunan*).

[2039] Abū Yūsuf narrated it on p.239.

[2040] There are three cases one of which is to mention it consecutively but not in conjunction in which case this act is deplored but the sacrifice is not *ḥarām*. Something like that is that one says, “In the name of Allah and Muḥammad is the Messenger of Allah,” [with Muḥammad] in the nominative case. Second, is that one mentions it consecutively in a conjunctive manner in the sense of association such as “In the name of Allah and in the name of so-and-so,” in which case the sacrifice is *ḥarām* because it is dedicated by that to other than Allah. Third, is that it is said with a distinct separation both in form and in sense in that one says it before saying the name of Allah and before laying the animal on its side or after that, and there is no harm in this because of that which is narrated from the Prophet ﷺ that he said after sacrificing, “O Allah accept this from the Ummah of Muḥammad from those who witness to Your Oneness.”

[2041] The people of knowledge differ as to whether or not it is obligatory to pronounce the Name [when sacrificing]. Ash-Shāfiʿī said that it is sunnah and it is not obligatory and that the meat of someone who leaves out mentioning the Name whether deliberately or accidentally is *ḥalāl*. Our [*Ḥanafī*] colleagues and the dominant majority say that it is obligatory to say it deliberately – but that if one forgets, it is not and they said that the sacrifice of someone who accidentally forgets to mention the Name is *ḥalāl* – because of His words, exalted is He, "*Eat that over which the name of Allah has been mentioned*" (Sūrat al-Anᶜam: 119). Ash-Shāfiᶜī sought to prove his point by the hadith, "The Muslim is sufficed by His name," or "The sacrifice of the Muslim is *ḥalāl*..." which according to us is to be interpreted to refer to the person who has forgotten.

[2042] *mirwah* is a fine white stone and is like a knife with which one can slaughter.

[2043] And in this there is the permissibility of slaughtering with a sharp-edged stone and with everything which will cause the blood to flow.

[2044] Meaning those which have not been removed. By its outward apparent meaning ash-Shāfiᶜī argued that an animal slaughtered by means of nails or teeth is *ḥarām*. According to us it is permissible to slaughter with nails and teeth if they are removed, so much so that there is no harm in eating [its meat] except that it is disapproved.

[2045] Ibn Abī Shaybah narrated the like of it in the *Muṣannaf*, vol.4, pp.258-61.

[2046] Al-Bukhārī narrated it under "deputising (*wakālah*)" in the chapter on "when the shepherd or a deputy (*wakīl*) spots a sheep dying."

[2047] This hadith indicates the mode of slaughter of domestic animals in cases of dire necessity such as when they fall down a well, etc.

[2048] But pronunciation of the *basmalah* is incumbent when firing the arrow. – Ed.

[2049] Al-Bukhārī narrated it under "partnership" in the chapter on "the division of the sheep," and under "sacrifices" and game in the chapter "those beasts that are refractory are in the same condition as wild animals," and Muslim under "ᶜĪd sacrifices" in the chapter on "the permissibility of sacrifice with anything which makes the blood flow."

[2050] *naḥr* consists in stabbing upwards into the standing camel's jugular vein, rather than slicing across both jugular veins as is the *dhabḥ* mode with cattle and sheep. – Trans.

[2051] *ᶜaqīqah* is slaughtering a sheep upon the birth of a child.

[2052] Meaning that whoever slaughters a she-camel or a cow and finds a dead foetus in its womb may not eat according to Abū Ḥanīfah, but Abū Yūsuf and Muḥammad said that if its form is complete it may be eaten which is the verdict of ash-Shāfiᶜī because of his statement, "The slaughter of a foetus is the slaughter of its mother," meaning that the slaughter of the mother substitutes for the slaughter of the foetus. But Abū Ḥanīfah said that it means that the slaughter of the foetus is [done] the same [way] as the slaughter of the mother so that it is not *ḥalāl* unless done with an independent act of slaughter just like the mother. If what the two imams said is closer to the literal sense, nevertheless that which the Imam al-Aᶜẓam said is closer to the meaning because the foetus is alive with its own life which is independent of the mother's. Thus if the calf or young one comes out of her womb alive, then the generality take the position that it should be treated in the same way as the mother.

[2053] Meaning that it was abandoned. He only meant that its origin was in the time of *Jāhiliyyah* and that it was then done at the beginning of Islam and then later the incumbent (*wājib*) nature of the *Aḍḥā* abrogated every sacrifice that used to be before it. The texts of these narrations show obviously that the *madhhab* of Abū Ḥanīfah is that *ᶜaqīqah* is abrogated and is no longer a part of the *Sharīᶜah*. That which ash-Shāmī transmitted from *Jāmiᶜ al-maḥbūbī* that it is permissible and that aṭ-Ṭaḥāwī explained in commentary that it is recommended is not from a transmission of the *madhhab* but is on the contrary their own opinions, which position they took because of the traditions narrated concerning that. Ash-Shāfiᶜī and Aḥmad regarded it as a sunnah *mu'akkadah* that there should be two sheep for a boy and a single sheep for a girl [but Mālik and the Madīnans held to the practice that it should be one sheep for each. – Trans.].

[2054] Abū Yūsuf narrated it on p.238.

[2055] Abū Yūsuf narrated it on p. 238.

FOOD AND DRINK

بَابُ مَا يُكْرَهُ مِنَ الشَّاةِ وَالدَّمِ وَغَيْرِهِ

266. WHAT THINGS ARE ABHORED OF SHEEP AND GOATS, AND BLOOD AND OTHER THINGS

٨١١ - مُحَمَّدٌ قَالَ : أَخْبَرَنَا عبدُ الرحمن بنُ عَمْرٍو الأَوْزَاعِيُّ عَنْ وَاصِلِ بْنِ أَبِي جَمِيلٍ عَنْ مجاهدٍ قَالَ : كَرِهَ رَسُولُ اللَّهِ صلى الله عَلَيْهِ وَسَلَّمَ من الشَّاةِ سَبْعًا : المَرَارَةَ ، وَالمَثَانَةَ ، وَالغُدَّةَ ، وَالحَيَاءَ ، وَالذكر ، وَالأُنْثَيَيْنِ ، وَالدَّمَ ، وَكَانَ رَسُولُ اللَّهِ صلى الله عَلَيْهِ وَسَلَّمَ يُحِبُّ من الشَّاةِ مُقَدَّمَهَا .

811. Muḥammad said, "ʿAbd ar-Raḥmān ibn ʿAmr al-Awzāʿī informed us from Wāṣil ibn Abī Jamīl that Mujāhid said, 'The Messenger of Allah ﷺ abhored seven things from the sheep: the gall-bladder, the urinary bladder, the glands, the vulva, the penis, the testicles and the blood. The Messenger of Allah ﷺ used to like the forepart of sheep and goats.'"

بَابُ مَا أُكِلَ فِي الْبَرِّ وَالْبَحْرِ

267. WHAT [CREATURES] OF THE LAND AND SEA ARE [PERMITTED] TO BE EATEN

٨١٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : لا خَيْرَ فِي شَيْءٍ مِمَّا يَكُونُ فِي الْمَاءِ إِلاَّ السَّمَكَ .

812. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘There is no good in anything in the water except for fish.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨١٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : كُلْ مَا جَزَرَ عَنْهُ الْمَاءُ وَمَا قَذَفَ بِهِ ، وَلَا تَأْكُلْ مَا طَفَا .

813. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Eat of that which water ebbs from [leaving it behind so that it dies] and what it casts forth, but do not eat that which floats [on top of the water having died of natural causes].’”[2056]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨١٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : كُلِ السَّمَكَ كُلَّهُ إِلاَّ الطَّافِيَ .

814. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Eat all fish except for that which floats [on top of the water having died a natural death].’”[2057]

٨١٥ – مُحَمَّدٌ قالَ : أَخْبَرَنا أَبو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْراهِيمَ عَنْ عُمَرَ بنِ الْخَطَّابِ
رَضِيَ الله عَنْه قالَ : وَدِدْتُ أَنَّ عِنْدِي قَفْعَةً أَوْ قَفْعَتَيْنِ من جَرَادٍ .

815. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿUmar ibn al-Khaṭṭāb رضي الله عنه said, 'I wish I had one or two small baskets[2058] of locusts.'"[2059]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

بَابُ مَا يُكْرَهُ من أَكْلِ لُحُومِ السِّبَاعِ وَأَلْبَانِ الْحُمُرِ

268. WHAT IS ABHORED OF EATING THE MEAT OF PREDATORS AND THE MILK OF DONKEYS

٨١٦ – مُحَمَّدٌ قالَ : أَخْبَرَنا أَبو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْراهِيمَ عَنْ عَائِشَةَ رَضِيَ الله
عَنْها أَنَّه أُهْدِيَ لَها ضَبٌّ ، فَسَأَلَت النَّبِيَّ صلى الله عَلَيْهِ وَسَلَّمَ عَنْ أَكْلِه ، فَنَهاها عَنْهُ ،
فَجاءَ سَائِلٌ ، فَأَرادَتْ أَنْ تُطْعِمَه اِيَّاهُ ، فقالَ أَتُطْعِمِينَه مَا لا تَأْكُلِينَ ؟ .

816. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿĀ'ishah رضي الله عنها was given a gift of a large lizard[2060] and so asked the Prophet ﷺ about eating it and he forbade her.[2061] A beggar came and she wanted to give it to him to eat, and he said, 'Would you feed him with that which you would not eat?'"[2062]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

٨١٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا مَكْحُولٌ الشَّامِيُّ عَنْ النَّبِيِّ صلى الله عَلَيْهِ وَسَلَّمَ أَنَّهُ نَهى عَنْ كُلِّ ذِي نَابٍ من السِّباعِ ، وَكُلِّ ذِي مِخْلَبٍ من الطَّيْرِ ، وَأَنْ تُوطَأَ الْحُبْلَى من الْفَيْءِ ، وَأَنْ يُوكَلَ لَحْمُ الْحُمُرِ الأَهْلِيَّةِ .

817. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Makḥūl ash-Shāmī narrated to us from the Prophet ﷺ that he forbade [eating] any predator[2063] that possesses fangs and any bird that possesses claws,[2064] [and he forbade] sexual intercourse with pregnant women[2065] taken in battle, and eating the meat of domestic donkeys.’”[2066]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨١٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنِ الْهَيْثَمِ عَنْ ابنِ عباسٍ رَضِيَ الله عَنْهما أَنَّه كَرِهَ لَحْمَ الْفَرَسِ .

818. Muḥammad said, “Abū Ḥanīfah informed us from al-Haytham that Ibn ʿAbbās ﵄ disapproved[2067] of horseflesh.”[2068]

قَالَ مُحَمَّدٌ : هَذَا قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى ، وَلَسْنَا نَأْخُذُ به ، وَلَا نَرَى بِلَحْمِ الْفَرَسِ بَأْساً ، قَدْ جَاءَ فِي احْلالِهِ آثارٌ كَثِيرَةٌ .

Muḥammad said, “This is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him, but we do not adhere to it, and we see no harm in horseflesh. Many traditions[2069] are narrated on its permissibility.”

٨١٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : لا خَيْرَ فِي لُحُومِ الْحُمُرِ وَأَلْبَانِهَا .

819. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘There is no good in the meat of donkeys and their milk.’”[2070]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ أَكْلِ الْجُبْنِ

269. EATING CHEESE

٨٢٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا عَطِيَّةُ الْعَوْفِيُّ عَنْ ابْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُما قَالَ : كُنْتُ جَالِسًا عِنْدَهُ إِذْ أَتَاهُ رَجُلٌ فَسَأَلَهُ عَنِ الْجُبْنِ ، فَقَالَ : وَمَا الْجُبْنُ ؟ قَالَ : شَيْءٌ يُصْنَعُ مِن أَلْبَانِ الْمَعْزِ ، وَعَامَةُ مَنْ يَصْنَعُهُ الْمَجُوسُ ، قَالَ : اذْكُرِ اسْمَ اللَّهِ وَكُلْ .

820. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘ʿAṭiyyah al-ʿAwfī narrated to us from Ibn ʿUmar ﵄ and he [ʿAṭiyyah] said, “I was sitting with him [Ibn ʿUmar] when a man came to him and asked him about cheese. He said, ‘What is cheese?’ He said, ‘Something manufactured from the milk of goats, and in general it is the Zoroastrians who manufacture it.’ He said, ‘Mention the name of Allah and eat it.’”’”[2071]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ الصَّيْدِ تَرْمِيهِ

270. GAME WHICH ONE SHOOTS

٨٢١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الرَّجُلِ يَرْمِي الصَّيْدَ أَوْ يَضْرِبُهُ ، قَالَ : إِذَا قَطَعَهُ بِنِصْفَيْنِ فَكُلْهُمَا جَمِيعًا ، وَإِنْ كَانَ مِمَّا يَلِي الرَّأْسَ أَقَلَّ فَكُلْهُمَا جَمِيعًا ، وَإِنْ كَانَ مِمَّا يَلِي الرَّأْسَ أَكْثَرَ فَكُلْ مِمَّا يَلِي الرَّأْسَ ، وَأَلْقِ مَا بَقِيَ مِنْهُ مِمَّا يَلِي الْعَجُزَ ، فَإِنْ قَطَعْتَ مِنْهُ قِطْعَةً أَوْ عُضْوًا ، فَبَانَتْ فَلَا تَأْكُلْهَا إِلَّا أَنْ يَكُونَ مُعَلَّقًا ، فَإِنْ كَانَ مُعَلَّقًا فَكُلْ .

821. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning a man who shoots game or hits it, ‘If he cuts it in two halves, eat both of them. If that which is closer to the head is smaller, eat both of them. If that which is closer to the head is larger, eat that which is closer to the head and throw away what remains of that which is closer to the rear.[2072] If you cut a piece off it or a limb and it is clearly separate, do not eat it unless it is attached. If it is attached, eat it.’”[2073]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٢٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ سَعِيدِ بن جُبَيْرٍ عَنْ ابن عباسٍ رَضِيَ الله عَنْهما أَنَّهُ قَالَ : أَتَاهُ عَبْدٌ أَسْوَدُ فَقَالَ : إِنِّي فِي مَاشِيَةِ أَهْلِي ، وَإِنِّي بِسَبِيلٍ مِن الطَّرِيقِ أَفَأَسْقِي مِن أَلْبَانِهَا ؟ قَالَ : لا ، قَالَ : فَأَرْمِي الصَّيْدَ فَأُصْمِي وَأُنْمِي ، قَالَ : كُلْ مَا أَصْمَيْتَ ، وَدَعْ مِمَّا أَنْمَيْتَ .

822. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Saʿīd ibn Jubayr from Ibn ʿAbbās ﵄ and he [Saʿīd ibn Jubayr] said, 'A black slave came to him [Ibn ʿAbbās] and said, "I am with the domestic cattle belonging to my family and I am on the way: may I give others some of their milk to drink?"[2074] He said, "No." He said, "I shoot game and it dies in front of me[2075] or goes out of my sight and later dies[2076]?" He said, "Eat what you shoot which dies, and leave that which goes out of your sight and later dies."'"[2077] [2078]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى ، وَإِنَّمَا يَعْنِي بِقَوْلِهِ (أَصْمَيْتَ) : مَا لَمْ يَتَوَارَ عَنْ بَصَرِكَ ، وَ (مَا أَنْمَيْتَ) : مَا تَوَارَى عَنْ بَصَرِكَ ، فَإِذَا تَوَارَى عَنْ بَصَرِكَ وَأَنْتَ فِي طَلَبِهِ حَتَّى تُصِيبَهُ لَيْسَ بِهِ جَرْحٌ غَيْرُ سَهْمِكَ فَلَا بَأْسَ بِأَكْلِهِ .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him. He only meant by his words 'you shoot it and it dies' as long as it does not hide itself from your sight. 'That which goes out of your sight and later dies,' is that which hides itself from your sight. If it hides itself from your sight and you search for it until you come upon it, and it has no wounds on it apart from your arrow, there is no harm in eating it."

٨٢٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا رَمَيْتَ الصَّيْدَ وَسَمَّيْتَ فَإِنْ قَطَعْتَهُ بِنِصْفَيْنِ فَكُلْهُ ، وَإِنْ كَانَ مِمَّا يَلِي الرَّأْسَ أَكْثَرَ أَكَلْتَ مِمَّا يَلِى الرَّأْسَ ، وَلَمْ تَأْكُلْ مِمَّا سِوَاهُ ، وَإِنْ قَطَعْتَ مِنْهُ يَدًا أَوْ رِجْلاً أَوْ قِطْعَةً مِنْهَا فَكُلْ مِنْهُ غَيْرَ مَا قَطَعْتَ مِنْهُ .

823. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If you shoot game and say the Name [of Allah],[2079] if you have cut it in two halves [with the spear or arrow], eat it. If that portion which is adjoining the head is larger, eat that which adjoins the head but don’t eat anything else. If you have severed a paw from it or a foot or any other part, eat all of it except for the part you have severed.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ صَيْدِ الْكَلْبِ

271. GAME CAUGHT BY A DOG

٨٢٤ : مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ عَدِيِّ بْنِ حَاتِمٍ رَضِيَ اللهُ عَنْهُ أَنَّهُ سَأَلَ رَسُولَ اللَّهِ صلى الله عَلَيْهِ وَسَلَّمَ عَنِ الصَّيْدِ إِذَا قَتَلَهُ الْكَلْبُ قَبْلَ أَنْ يُدْرِكَ ذَكَاتَهُ ، فَأَمَرَ النَّبِيُّ صلى الله عَلَيْهِ وَسَلَّمَ بِأَكْلِهِ إِذَا كَانَ عَالِمًا .

824. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿAdī ibn Ḥātim ؓ asked the Messenger of Allah ﷺ about game which a dog kills before one reaches it to slaughter it, and the Prophet ﷺ told him to eat it if [the dog] is trained."[2080] [2081]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

٨٢٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ إِذَا أَمْسَكَ عَلَيْكَ كَلْبُكَ الْمُعَلَّمُ فَكُلْ ، وَإِذَا أَمْسَكَ عَلَيْكَ غَيْرُ الْمُعَلَّمِ فَلَا تَأْكُلْ .

825. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, 'If your trained dog catches for you [and kills its prey] then eat. If an untrained dog catches for you [and kills its prey], do not eat it.'"

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

٨٢٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ سَعِيدِ بْنِ جُبَيْرٍ عَنِ ابن عباس رَضِيَ الله عَنْهما قَالَ : مَا أَمْسَكَ عَلَيْكَ كَلْبُكَ إِنْ كَانَ عَالِمًا فَكُلْ ، فَإِنْ أَكَلَ فَلَا تَأْكُلْ مِنْهُ فَإِنَّمَا أَمْسَكَ عَلَى نَفْسِهِ ، وَأَمَّا الصَّقْرُ وَالْبَازِي فَكُلْ وَإِنْ أَكَلَ ، فَإِنَّ تَعْلِيمَهُ إِذَا دَعَوْتَهُ أَنْ يَجِيئَكَ ، وَلَا يَسْتَطِيعُ ضَرْبَهُ حَتَّى يَدَعَ الْأَكْلَ .

826. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm from Saʿīd ibn Jubayr that Ibn ʿAbbās ؓ said, 'That which your dog catches for you [and kills], if it is trained, eat it. If it has eaten [of it], do not eat because it has only caught it for itself.

As for the hawk and the falcon, eat even if it has [already] eaten, because the extent that indicates that it is trained[2082] is that if you call it, it will come to you, and it is unable to withstand being beaten[2083] to give up the food.’”[2084]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٢٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ فِي الَّذِي يُرْسِلُ كَلْبَه وَيَنْسَى
أَنْ يُسَمِّيَ ، فَأَخَذَه ، فَقَتَلَ ، قَالَ : أُكْرَهُ أَكْلَه ، وَإِنْ كَانَ يَهُودِيًّا أَوْ نَصْرَانِيًّا فَمِثْلُ ذَلِكَ .

827. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning someone who sends out his dog but forgets to mention the Name and it catches and kills [the game], ‘I abhor eating it, and if a Jew or a Christian[2085] [dispatched the dog] then it is the same as that.’”

قَالَ مُحَمَّدٌ : وَلَسْنَا نَأْخُذُ بِهذَا ، لا بَأْسَ بِأَكْلِه إِذَا تَرَكَ التَّسْمِيَةَ نَاسِيًا ، وَهُوَ قَوْلُ أَبِي
حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We do not adhere to this. There is no harm in eating it if he left out the Name from forgetfulness, and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٢٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا قَتَادَةُ عَنْ أَبِي قِلابَةَ عَنْ أَبِي ثَعْلَبَةَ الْخُشَنِيِّ رَضِيَ اللهُ عَنْهُ عَنِ النَّبِيِّ صلى الله عَلَيْهِ وَسَلَّمَ قَالَ : قُلْنَا : إِنَّا نَأْتِي أَرْضَ الْمُشْرِكِينَ أَفَنَأْكُلُ فِي آنِيَتِهِمْ ؟ قَالَ : إِنْ لَمْ تَجِدُوا مِنْهَا بُدّاً فَاغْسِلُوهَا ، ثُمَّ كُلُوا فِيهَا ، قُلْنَا : فَإِنَّا بِأَرْضِ صَيْدٍ ؟ قَالَ : كُلْ مَا أَمْسَكَ عَلَيْكَ سَهْمُكَ ، أَوْ فَرَسُكَ ، أَوْ كَلْبُكَ إِذَا كَانَ عَالِمًا ، وَنَهَانَا عَنْ أَكْلِ كُلِّ ذِي نابٍ من السِّبَاعِ ، وَكُلِّ ذِي مِخْلَبٍ من الطَّيْرِ ، وَأَنْ نَأْكُلَ لُحُومَ الْحُمُرِ الأَهْلِيَّةِ .

828. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Qatādah narrated to us from Abū Qalābah from Abū Thaʿlabah al-Khushanī ؓ from the Prophet ﷺ and [Abū Thaʿlabah] said, “We said, ‘We go to the land of those who associate partners with Allah (*mushrikūn*); may we eat from their vessels?’ He said, ‘If there is no avoiding it, wash them and then eat from them.’ We said, ‘We are in a land [where we hunt] game?’ He said, ‘Eat that which your arrow gains for you or your horse or your dog, if it is trained,’ and he forbade us to eat any predator with fangs, any bird with claws, or to eat the meat of the domestic donkey.”’”[2086]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ الأَشْرِبَةِ وَ الأَنْبِذَةِ وَالشُّرْبِ قَائِمًا وَمَا يُكْرَهُ فِي الشَّرابِ

272. DRINKS, *NABĪDH* DRINKS, DRINKING STANDING, AND THOSE DRINKS WHICH ARE ABHORENT

٨٢٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ سُلَيْمَانَ الشَّيْبَانِيِّ عَنِ ابْنِ زِيَادٍ أَنَّهُ أَفْطَرَ
عِنْدَ عَبْدِ اللَّهِ بن عمر رَضِيَ الله عَنْهما فَسَقَاهُ شَرَابًا لَهُ ، فَكَأَنَّهُ أَخَذَهُ فِيهِ ، فَلَمَّا أَصْبَحَ
قَالَ : مَا هَذَا الشَّرَابُ؟ مَا كِدْتُ أَهْتَدِي إِلَى مَنْزِلِي ، فَقَالَ عَبْدُ اللَّهِ رَضِيَ الله عَنْه :
مَا زِدْنَاكَ عَلَى عَجْوَةٍ وَزَبِيبٍ .

829. Muḥammad said, “Abū Ḥanīfah informed us from Sulaymān ash-Shaybānī that Ibn Ziyād[2087] broke his fast with ʿAbdullāh ibn ʿUmar ؓ and he [ʿAbdullāh ibn ʿUmar] gave him [Ibn Ziyād] some of his drink and it was as if it had overwhelmed him (*akhadhahu fīhi*). When he woke up in the morning he asked, ‘What was this drink? I could hardly find my way to my house.’ ʿAbdullāh ؓ said, ‘We gave you nothing more than [an infusion of steeped] *ʿajwah* [dates] and raisins.’”[2088]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٣٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ نَافِعٍ ، عَنِ ابْنِ عمر رَضِيَ الله عَنْه أَنَّهُ كَانَ
يُنْبَذُ لَهُ نَبِيذُ الزَّبِيبِ ، فَلَمْ يَكُنْ يَسْتَمْرِئُهُ ، فَقَالَ لِلْجَارِيَةِ : اطْرَحِي فِيهِ تَمَرَاتٍ .

830. Muḥammad said, “Abū Ḥanīfah informed us from Nāfiʿ from Ibn ʿUmar ؓ that he [Nāfiʿ] used to prepare a *nabīdh* infusion of raisins for him [Ibn ʿUmar] and he did not find it wholesome[2089] so he said to his slave girl, ‘Throw some dried dates in it.’”[2090]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٣١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّهُ قَالَ : لَا بَأْسَ بِشُرْبِ
نَبِيذِ التَّمْرِ وَالزَّبِيبِ إِذَا خَلَطَهُمَا ، إِنَّمَا كُرِهَا لِشِدَّةِ الْعَيْشِ فِي الزَّمَنِ الْأَوَّلِ كَمَا كُرِهَ السَّمَنُ
وَاللَّحْمُ ، فَأَمَّا إِذَا وَسَّعَ اللَّهُ تَعَالَى عَلَى الْمُسْلِمِينَ فَلَا بَأْسَ بِهِمَا .

831. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that he said, ‘There is no harm in drinking *nabīdh* infusions of dates and raisins if you mix them. They were only disapproved because of the severity of their living situation in the first age just as fat and meat were disapproved of. As for when Allah, exalted is He, has been generous to the Muslims, there is no harm in these two.’”[2091]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

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بَابُ النَّبِيذِ الشَّدِيدِ

273. STRONG *NABĪDH*

٨٣٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ قَالَ : كُنْتُ أَتَّقِي النَّبِيذَ ، فَدَخَلْتُ
عَلَى إِبْرَاهِيمَ وَهُوَ يَطْعَمُ ، فَطَعِمْتُ مَعَهُ ، فَأُوتِيَ قَدَحًا مِن نَبِيذٍ ، فَلَمَّا رَأَى إِبْطَائِي عَنْه
قَالَ : حَدَّثَنِي عَلْقَمَةُ ، عَنْ عبدِ اللَّهِ بن مَسْعُودٍ رَضِيَ الله عَنْه أَنَّهُ كَانَ رُبَّمَا طَعِمَ عِنْدَه ،
ثُمَّ دَعَا نَبِيذاً لَهُ تَنْبِذُه سِيرِينُ أُمُّ وَلَدِ عَبْدِ اللَّهِ ، فَشَرِبَ وَسَقَانِي .

832. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād who said, ‘I used to be wary of *nabīdh*, and then I went to see Ibrāhīm while he was eating and ate with him. He was brought a

vessel of *nabīdh*, but when he saw my hesitation[2092] over it he said, “ʿAlqamah narrated to me from ʿAbdullāh ibn Masʿūd ﵁ that he [ʿAlqamah] would sometimes eat with him and then he [ʿAbdullāh] would call for some of his *nabīdh*[2093] which Sīrīn, ʿAbdullāh’s *umm walad*, had prepared for him and he drank and gave me to drink.”””[2094]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٣٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا مُزَاحِمُ بْنُ زُفَرَ عَنْ الضَّحَّاكِ بْنِ
مُزَاحِمٍ قَالَ: انْطَلَقَ أَبُو عُبَيْدَةَ، فَأَرَاهُ جَرًّا أَخْضَرَ لِعَبْدِ اللَّهِ بْنِ مَسْعُودٍ رَضِيَ الله عَنْه
كَانَ يُنْبَذُ لَهُ فِيهِ.

833. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Mazāḥim ibn Zufar narrated to us that aḍ-Ḍaḥḥāk ibn Mazāhim said, “Abū ʿUbaydah[2095] went off and then he showed him glazed clay vessels of ʿAbdullāh ibn Masʿūd ﵁ in which *nabīdh*[2096] was prepared for him.”’”[2097]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٣٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا أَبُو إِسْحَاقَ السَّبِيعِيُّ عَنْ عَمْرِو بْنِ
مَيْمُونٍ الأَوْدِيِّ عَنْ عُمَرَ بْنِ الْخَطَّابِ رَضِيَ الله عَنْه قَالَ : إِنَّ لِلْمُسْلِمِينَ جَزُورًا لِطَعَامِهِمْ ،
وَإِنَّ الْعَتِيقَ مِنْهَا لِآلِ عُمَرَ ، وَإِنَّهُ لا يَقْطَعُ لُحُومَ هَذِهِ الإِبِلِ فِي بُطُونِهَا إِلَّا النَّبِيذُ الشَّدِيدُ .

834. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Abū Isḥāq as-Sabīʿī narrated to us from ʿAmr ibn Maymūn al-Awdī that ʿUmar

ibn al-Khaṭṭāb ؓ said, “The Muslims have camels[2098] [which they slaughter] for their food, and the old camels among them belong to the family of ʿUmar, and nothing digests (lit.: cuts) the meat of these camels in their bellies except for strong *nabīdh.’”*[2099]

قَالَ مُحَمَّدٌ : وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٣٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ : أَنَّ عُمَرَ رَضِيَ اللهُ عَنْهُ أُتِيَ بِأَعْرَابِيٍّ قَدْ سَكِرَ ، فَطَلَبَ لَهُ عُذْرًا ، فَلَمَّا أَعْيَاهُ (لِذَهَابِ عَقْلٍ) قَالَ : احْبِسُوهُ ، فَإِذَا صَحَا فَاجْلِدُوهُ ، وَدَعَا بِفَضْلَةٍ فَضَلَتْ فِي إِدَاوَتِهِ ، فَذَاقَهَا ، فَإِذَا نَبِيذٌ شَدِيدٌ مُمْتَنِعٌ ، فَدَعَا بِمَاءٍ فَكَسَرَهُ ، (وَكَانَ عُمَرُ رَضِيَ اللهُ عَنْهُ يُحِبُّ الشَّرَابَ الشَّدِيدَ) فَشَرِبَ ، وَسَقَى جُلَسَاءَهُ ، ثُمَّ قَالَ : هَذَا اكْسِرُوهُ بِالْمَاءِ إِذَا غَلَبَكُمْ شَيْطَانُهُ .

835. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said that ʿUmar ؓ was brought a desert Arab who had become drunk. He tried to look for an excuse for him,[2100] but when he couldn’t do that (because of the departure of his intellect) he said, ‘Lock him up and when he is sober, flog him.’ He called for the remains left in the small waterskin and tasted it, discovering it to be impossibly strong *nabīdh* and so he called for water and diluted it (and ʿUmar ؓ used to like strong drink). Then he drank and gave the people sitting with him to drink. He said, ‘Dilute this with water when its *shayṭān* overcomes you.’”[2101] [2102]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ نَبِيذِ الطَّبِيخِ وَالْعَصِيرِ

274. COOKED *NABĪDH* AND PRESSED FRUIT JUICE

٨٣٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : إِذَا طُبِخَ الْعَصِيرُ فَذَهَبَ ثُلُثَاهُ وَبَقِيَ ثُلُثُه قَبْلَ أَنْ يَغْلَى فَلَا بَأْسَ بِه .

836. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If pressed fruit juice[2103] is cooked and two-thirds of it evaporates leaving a third before it ferments,[2104] there is no harm in it.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللّٰهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٣٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّهُ كَانَ يَشْرَبُ الطِّلَاءَ قَدْ ذَهَبَ ثُلُثَاهُ وَبَقِيَ ثُلُثُه ، وَيُجْعَلُ لَهُ مِنْهُ نَبِيذٌ ، فَيَتْرُكُه حَتَّى إِذَا اشْتَدَّ شَرِبَه ، وَلَمْ يَرَ بِذَلِكَ بَأْساً .

837. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm used to drink cooked pressed juice of grapes (*ṭalā’*) when two-thirds of it had evaporated[2105] and a third remained and *nabīdh* would be made out of it for him. Then he would leave it until it became strong, when he would drink it and would not see anything wrong in that.”[2106] [2107]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللّٰهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٣٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا الْوَلِيدُ بْنُ سَرِيعٍ (مَوْلَى عَمْرِو بْنِ حُرَيْثٍ) عَنْ أَنَسِ بْنِ مَالِكٍ رَضِيَ الله عَنْه أَنَّهُ كَانَ يَشْرَبُ الطِّلاءَ عَلَى النِّصْفِ .

838. Muḥammad said, "Abū Ḥanīfah informed us saying, 'Al-Walīd ibn Sarīᶜ (the freed slave of ᶜAmr ibn Ḥarīth) narrated to us that Anas ibn Mālik ؓ used to drink cooked pressed grape juice [when it had been cooked so that] a half [remained]."[2108] [2109]

قَالَ مُحَمَّدٌ : وَلَسْنَا نَأْخُذُ بِهذَا ، وَلَا يَنْبَغِي لَهُ أَنْ يَشْرَبَ مِن الطِّلاءِ إِلاَّ مَا ذَهَبَ ثُلُثَاهُ وَبَقِيَ ثُلُثُهُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, "We do not adhere to this. One ought not to drink any cooked pressed grape-juice except that of which two-thirds have evaporated and a third remains, and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

◆

بَابُ السَّكَرِ وَالْخَمْرِ

275. STRONG PRESSED DATE-JUICE[2110] AND WINE

٨٣٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ الْهَيْثَمِ عَن ابنِ مَسْعُودٍ رَضِيَ الله عَنْه أَنَّهُ أَتَاهُ رَجُلٌ بِهِ صَفَرٌ ، فَسَأَلَه عَنِ السَّكَرِ فَنَهَاهُ عَنْهُ.

839. Muḥammad said, "Abū Ḥanīfah informed us from al-Haytham from Ibn Masᶜūd ؓ that a man[2111] with jaundice[2112] came to him and asked him about strong pressed date-juice, and he forbade him [to drink it]."

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٤٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عَنْ ابن مَسْعُودٍ رَضِيَ اللهُ عَنْهُ قَالَ : إِنَّ أَوْلَادَكُمْ وُلِدُوا عَلَى الْفِطْرَةِ، فَلَا تُدَاوُوهُمْ بِالْخَمْرِ ، وَلَا تَغْذُوهُمْ بِهَا ، إِنَّ اللَّهَ لَمْ يَجْعَلِ الرِّجْسَ شِفَاءً ، إِنَّمَا إِثْمُهُمْ عَلَى من سَقَاهُمْ .

840. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that Ibn Masʿūd ﵁ said, ‘Your children are born in the natural state (*fiṭrah*) so do not treat them medically with wine nor nourish them with it; Allah has not made impurity a healing. Their [the children’s] wrong action will only be the liability of those who give it to them to drink.’”[2113]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ الشُّرْبِ فِي الْأَوْعِيَةِ وَالظُّرُوفِ وَالْجَرِّ وَغَيْرِه

276. DRINKING FROM VESSELS, RECEPTACLES, AND CERAMIC POTS ETC.

٨٤١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا عَلْقَمَةُ بْنُ مَرْثَدٍ عَنْ ابنِ بُرَيْدَةَ
عَنْ أَبِيهِ رَضِيَ الله عَنْه عَنِ النَّبِيِّ صلى الله عَلَيْهِ وَسَلَّمَ أَنَّهُ قَالَ : كُنْتُ نَهَيْتُكُمْ عَنْ
زِيَارَةِ الْقُبُورِ فَزُورُوهَا ، وَلَا تَقُولُوا هُجْرًا ، فَقَدْ أُذِنَ لِمُحَمَّدٍ فِي زِيَارَةِ قَبْرِ أُمِّه ، وَعَنْ لُحُومِ
الأَضَاحِي أَنْ تُمْسِكُوهَا فَوْقَ ثَلَاثَةِ أَيَّامٍ ، فَأَمْسِكُوهَا مَا بَدَا لَكُمْ ، وَتَزَوَّدُوا فَإِنَّمَا نَهَيْتُكُمْ
لِيُوَسِّعَ مُوسِعُكُمْ عَلَى فَقِيرِكُمْ ، وعَنِ النَّبِيذِ فِي الدُّبَّاءِ وَالْحَنْتَمِ وَالْمُزَفَّتِ ، فَاشْرَبُوا فِي
كُلِّ ظَرْفٍ فَإِنَّ الظَّرْفَ لا يُحِلُّ شَيْئًا وَلَا يُحَرِّمُه ، وَلَا تَشْرَبُوا السَّكَرَ .

841. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘ʿAlqamah ibn Marthad narrated to us from Ibn Buraydah from his father ؓ that the Prophet ﷺ said, “I had forbidden you to visit graves but now visit them but do not say foul things, because permission has been granted Muḥammad to visit the grave of his mother. [I had forbidden you] to keep the meat of *Aḍḥā* sacrifices for more than three days but now keep it as long as you wish and take it as travelling provision, because I only forbade you in order that your wealthy people would be generous to your poor. [I had forbidden you] to drink *nabīdh* from gourds,[2114] ceramic pots,[2115] and jars smeared with pitch[2116] but now drink from every receptacle because the receptacle makes nothing *ḥalāl* or *ḥarām*, but do not drink intoxicants.”’”[2117] [2118]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٤٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا إِسْحَاقُ بْنُ ثَابِتٍ عَنْ أَبِيهِ عَنْ
عَلِيِّ بْنِ حسينٍ رَضِيَ الله عَنْه عَنِ النَّبِيِّ صلى الله عَلَيْهِ وَسَلَّمَ أَنَّهُ غَزَا غَزْوَةَ تَبُوكَ ،
فَمَرَّ بِقَوْمٍ يَرْفُثُونَ، فَقَالَ لَهُمْ : مَا لِهَؤُلَاءِ ؟ قَالُوا : أَصَابُوا من شَرَابٍ لَهُمْ ، قَالَ: مَا
ظُرُوفُهُمْ ؟ قَالُوا : الدُّبَّاءُ ، وَالْحَنْتَمُ ، وَالْمُزَفَّتُ، فَنَهَاهُمْ أَنْ يَشْرَبُوا فِيهَا ، فَلَمَّا مَرَّ بِهِمْ
رَاجِعًا من غَزَاتِهِ شَكَوْا إِلَيْهِ مَا لَقُوا من التُّخْمَةِ، فَأَذِنَ لَهُمْ أَنْ يَشْرَبُوا فِيهَا ، وَنَهَاهُمْ أَنْ
يَشْرَبُوا السَّكَرَ.

842. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Isḥāq ibn Thābit narrated to us from his father from ʿAlī ibn Ḥusayn ؓ that the Prophet ﷺ went on the military expedition to Tabūk and passed by people behaving indecently.[2119] He said to them, “What is wrong with these people?” They have been overcome by a drink of theirs.” He asked, “What receptacles do they use?” They said, “Gourds, ceramic pots, and jars smeared with pitch,” and so he forbade them to drink from them. When he passed by them on the return journey from his military expedition they complained to him of the indigestion they were experiencing and so he permitted them to drink from them and forbade them to drink strong pressed date-juice.’”[2120]

قَالَ مُحَمَّدٌ : وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “It is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٤٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : (مَا أَسْكَرَ كَثِيرُهُ
فَقَلِيلُهُ حَرَامٌ) خَطَأٌ من النَّاسِ ، إِنَّمَا أَرَادُوا السُّكْرُ حَرَامٌ من كُلِّ شَرَابٍ .

843. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘”That of which a lot intoxicates, a little of is

ḥarām,” is a mistake on the part of people. They only meant that intoxication from any drink is *ḥarām*.’”[2121] [2122]

قَالَ مُحَمَّدٌ : وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ .

Muḥammad said, “It is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٤٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا سَالِمٌ الأَفْطَسُ عَنْ سَعِيدِ بْنِ جُبَيْرٍ عَنْ ابن عُمَرَ رَضِيَ الله عَنْهما : أَنَّهُ شَرِبَ من قِرْبَةٍ وَهُوَ قَائِمٌ .

844. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Sālim al-Afṭas narrated to us from Saʿīd ibn Jubayr that Ibn ʿUmar ﵄ drank from a waterskin while standing.’”[2123] [2124]

وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

“We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ الشُّرْبِ فِي آنِيَةِ الذَّهَبِ وَالْفِضَّةِ

277. DRINKING FROM GOLD AND SILVER VESSELS

٨٤٥ – مُحَمَّدٌ قَالَ : حَدَّثَنَا أَبُو فَرْوَةَ عَنْ عَبْدِ الرَّحْمن بْنِ أَبِي لَيْلَى عَنْ حذيفة
بْنِ الْيَمَانِ قَالَ: نَزَلْتُ مَعَ حُذَيْفَةَ رَضِيَ الله عَنْه عَلَى دِهْقَانٍ بِالْمَدَائِنِ، فَأَتَانَا بِطَعَام،
فَطَعِمْنا ، فَدَعَا حُذَيْفَةُ رَضِيَ الله عَنْه بِشَرَابٍ ، فَأَتَاهُ بِشَرَابٍ فِي إِنَاءٍ من فِضَّةٍ، فَأَخَذَ
الإِنَاءَ فَضَرَبَ بِهِ وَجْهَه، فَسَاءَنَا الَّذِي صَنَعَ بِه، قَالَ : فقَالَ : هَلْ تَدْرُونَ لِمَ صَنَعْتُ
هَذَا ؟ قُلْتُ: لا، قَالَ: نَزَلْتُ به مَرَّةً فِي الْعَامِ الْمَاضِي، فَأَتَانِي بِشَرَاب فِيه، فَأَخْبَرْتَه
أَنَّ رَسُولَ اللَّهِ صلى الله عَلَيْهِ وَسَلَّمَ نَهَانَا أَنْ نَأْكل فِي آنِيَةِ الذَّهَبِ وَالْفِضَّةِ، وَأَنْ نَشْرَبَ
فِيهِمَا ، وَلَا نَلْبَسَ الْحَرِيرَ وَالدِّيبَاجَ فَإِنَّهُمَا لِلْمُشْرِكِينَ فِي الدُّنْيَا ، وَهُمَا لَنَا فِي الْآخِرَة .

845. Muḥammad said, “Abū Farwah[2125] narrated to us from ʿAbd ar-Raḥmān ibn Abī Laylā from Ḥudhayfah ibn al-Yamān and he [ʿAbd ar-Raḥmān] said, ‘I was a guest of Dihqān[2126] in Madā’in[2127] along with Ḥudhayfah ؓ, and he [Dihqān] brought us food and we ate. Ḥudhayfah called for some drink and he brought us something to drink in a silver vessel, and so he took the vessel and struck his (Dihqān’s) face with it. What he did upset us.’ He said, ‘So he said,[2128] “Do you realise why I have done this?” I said, “No.” He said, “I alighted with him as his guest once last year and he brought me a drink in it[2129] and I informed him that the Messenger of Allah ﷺ forbade us[2130] to eat in vessels of gold and silver or to drink from them, and not to wear silk and brocade, because both are for idolaters in this world and for us in the next life.”’”[2131]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

[2056] The floating fish (*ṭāfī*) is that which dies in the sea and then floats on the surface of the water without sinking into it. According to us it is disapproved to eat floating fish, but the three Imams said there is no harm in it because of the general sense of his statement ﷺ, "In the sea's water is purity, and that which is dead in it is *ḥalāl*." The answer to that is that what is meant by "that which is dead in" the sea is the fish the cause of whose death was the sea itself in that the sea cast it up on the seashore or withdrew to leave it stranded, not the one that died in the sea of natural causes and then floats up on the surface of the water, which is proved by the prohibition narrated of eating floating fish that have died, as is narrated by Abū Dāwūd, "That which dies within it and floats, do not eat it."

[2057] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.4, p.254.

[2058] A *qafʿah* is something resembling a basket of palm leaves (*zabīl*) without handle and not being large.

[2059] An-Nawawī رحمه الله narrated that there is unanimous agreement that it is *ḥalāl* to eat locusts.

[2060] The species of lizard referred to is large, somewhat akin in size to the iguana of South America. – Trans.

[2061] And according to us it is abhorent to eat lizard, but the three Imams gave the verdict that it is permissible.

[2062] Abū Yūsuf narrated it on p.238.

[2063] Such as the lion, wolf and dog.

[2064] Meaning, every bird that hunts by means of its claws, which are the extremities of the nails on the bird's or wild animals' digits.

[2065] Until they have delivered their children.

[2066] At-Tirmidhī narrated it as a *marfūʿ* hadith al-ʿIrbāḍ ibn Sāriyah under "foods" in the chapter on "what has been narrated on the abhorrence of eating the animal which has been confined [or bound and then killed by arrows etc.]."

[2067] It is said that Abū Ḥanīfah returned to the position that it is permissible to eat horseflesh three days before his death, which is what Shaykh ʿAbd al-Ḥaqq said.

[2068] Abū Yūsuf narrated it on p.237.

[2069] As is narrated in al-Bukhārī and others, "And he granted a concession with respect to horseflesh."

[2070] See the traditions like it in the *Muṣannaf* [of Ibn Abī Shaybah], vol.5, pp.120-1.

[2071] Ibn Abī Shaybah narrated other traditions like this in the *Muṣannaf* in, vol.5, pp.128-30.

[2072] *ʿajuz* is the rump of anything or of a body.

[2073] Abū Yūsuf narrated it on p.241.

[2074] Meaning, without their permission.

[2075] That someone kills game on the spot, and it means the swift departure of the spirit.

[2076] Which is that one hits it in such a way that it is not immediately fatal.

[2077] Meaning that when you hunt game with dogs, by archery or some other means and it dies in front of your eyes not after it has got away from you, then eat of it. As for that which you hit and it gets away from you and dies afterwards, then leave it because you do not know whether it died because of your hunting or because of some accident.

[2078] Abū Yūsuf narrated it on p.240.

[2079] One has to say the Name upon loosing [dogs or arrows] if one remembers, but if one forgets there is no harm in eating it.

[2080] *ʿālim*: literally "knowing" and in another narration, *muʿallam* "trained" or "taught."

[2081] Al-Bukhārī narrated it under "sacrifices and game" in the chapter on "pronouncing the Name over game," and Muslim under "game and sacrifices" in the chapter on "hunting with trained dogs."

[2082] Because the sign of it being trained is that it will abandon its customary usage. The wild falcon easily takes fright so the sign of its being trained is its responding to being called. As for the dog, its habit is to devour things, so the sign that it is trained is its abandoning its custom, i.e., by not eating.

[2083] Since the falcon's body will not support being beaten.

[2084] Abū Yūsuf narrated it on p 241 from Ibrāhīm as a *mawqūf* statement of his.

[2085] Meaning that if the person who loosed the dog is a Jew or a Christian it is not permissible to eat [the game] since it is not appropriate for him to slaughter [meat in a way that fits the *Sharīʿah*] which is a precondition for loosing [the dog].

[2086] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.5, p.126.

[2087] It is most probable that it was Muḥammad ibn Ziyād who was one of Shuʿbah's shaykhs.

[2088] Abū Yūsuf narrated it on p.226.

[2089] In these two traditions there was a proof for Abū Ḥanīfah on the permissibility of mixing raisins and dried dates because of the specific textual expression, and on the permissibility of mixing unripe dates and dried dates, fresh dates and dried dates, or unripe dates and fresh dates by the same indication. And that which is narrated of the Prophet ﷺ

concerning its prohibition is interpreted to refer to the time of great hardship in living conditions as is shown clearly in the following tradition.

[2090] Abū Yūsuf narrated it on p.226.

[2091] Abū Yūsuf narrated it on p.226.

[2092] Meaning, “my delay and my avoidance of it.”

[2093] Non-intoxicating.

[2094] Abū Yūsuf narrated it on p.223.

[2095] The son of ʿAbdullāh ibn Masʿūd ﵁.

[2096] And in another narration, “in which he used to make *nabīdh*.”

[2097] Abū Yūsuf narrated it on p.224.

[2098] Whether male or female, although the word is feminine.

[2099] Abū Yūsuf narrated it on p.224.

[2100] He wanted to give him a way out, but the man refused because of the departure of his intellect.

[2101] This is the proof that intoxicating *nabīdh* is *ḥalāl* [if it is not used for intoxication] because ʿUmar tasted it after learning of the Bedouin’s drunkenness from it. If both a little and much of it had been *ḥarām* ʿUmar would not have tasted it – and it is not permissible to taste wine – and then later he drank it after diluting it, and that is not permissible with wine. This action of ʿUmar was what drove Ibrāhīm to declare people mistaken in saying unqualifiedly, “That of which a lot intoxicates, a little of it is *ḥarām*.” He said, “The truth is that intoxication is unqualifiedly *ḥarām*” (*Iʿlā’ as-sunan*).

[2102] Abū Yūsuf narrated it on p.226.

[2103] If the pressed juice of grapes is cooked until two thirds of it has gone and one third remains then it is *ḥalāl* even if it is strong. This is according to Abū Ḥanīfah and Abū Yūsuf. According to Muḥammad, ash-Shāfiʿī and Mālik it is *ḥarām*. This is the difference of opinion if one intends by it to strengthen oneself, but if one intends by it to entertain oneself it is not *ḥalāl* and that is agreed upon unanimously.

[2104] If it ferments and becomes strong it is also permissible according to Abū Ḥanīfah and Abū Yūsuf.

[2105] “When two thirds of it had evaporated” is the explanation of what *ṭalā’* is.

[2106] By this it is established that strong *nabīdh* which is not intoxicating is permissible, and that is the verdict of Abū Ḥanīfah, Abū Yūsuf and Muḥammad. [Ash-Shāfiʿī, and Mālik considered it *ḥarām*. However, if it ferments it is *ḥarām* according to everyone. – Ed.]

[2107] Ibn Abī Shaybah narrated the like of it in the *Muṣannaf*, vol.5, p.89.

[2108] And it is that of which a half has evaporated by cooking and pressed fruit juice when it is cooked and less than a two-thirds evaporates, and it is *ḥarām* if it ferments and becomes strong and is cast into the *zabad* according to the Imam and if it becomes strong according to the two of them [Abū Yūsuf and Muḥammad].

[2109] Abū Yūsuf narrated it on p.227.

[2110] *as-sakar* is pressed date-juice when it becomes strong.

[2111] Nuʿaym ibn al-ʿAwwām.

[2112] *ṣafar* is jaundice, but also hunger. The word might equally be *ṣufr* or *ṣifr*, but I have chosen the meaning of jaundice since it seems to indicate that the man thought that he might have a medical excuse for drinking the strong date-juice. – Trans.

[2113] Abū Yūsuf narrated it on p.227.

[2114] *dubbā'* is the plural of *dabā'ah* and is the gourd in which they used to prepare *nabīdh* which would quickly become strong to drink.

[2115] Red or, some say, green earthenware jars.

[2116] The prohibition of preparing *nabīdh* in these vessels was at the very beginning of Islam and was then later abrogated and that is the position according to us. Mālik and Aḥmad took the position that the prohibition is still in effect.

[2117] Meaning that every intoxicant is *ḥarām*; if it is wine it is *ḥarām* in itself, but if it is anything else the intoxicant that is made in it is *ḥarām* and so do not drink that in which an intoxicant has been originated if it is *nabīdh* and do not drink that which possesses intoxicating properties if it is wine (*Iʿlā' as-sunan*).

[2118] Muslim narrated it under "funerals" in the chapter on "the Prophet ﷺ seeking permission from his Lord ﷻ to visit his mother's grave."

[2119] Speaking indecently and behaving ignorantly with laughter and mockery. There is in the *Āthār* of Abū Yūsuf that they were dancing because of their intoxication.

[2120] Abū Yūsuf narrated it on pp.225-6.

[2121] An-Nakhaʿī did not mean to criticise the narration, because it is *ṣaḥīḥ*, but what he meant was that people interpreted it inappropriately and they regarded everything of which a great deal causes intoxication that then a little of it is *ḥarām* whether or not it is wine or something else. However it is particularly about wine. The sound position in general is that intoxication is *ḥarām* from every drink whether or not it is wine.

[2122] Abū Yūsuf narrated it on p.227.

[2123] One reconciles the hadith narrated on prohibition of that by interpreting them to express precautionary (*tanzīhī*) disapproval to which view al-Bayhaqī and an-Nawawī subscribed. Aṭ-Ṭaḥāwī interpreted the hadith on drinking standing as referring to the basic principle of permissibility and the hadith on prohibition as coming later so that they are acted upon.

[2124] Ibn Abī Shaybah narrated it in the *Muṣannaf*, vol.5, p.99.

[2125] His name was Muslim ibn Sālim.

[2126] He was a Jew as is in the narration of al-Bukhārī.

[2127] Madā'in Kisrā near Baghdad.

[2128] Excusing his striking his own face.

[2129] Meaning in the silver vessel.

[2130] But Dihqān did not stop and so I struck him.

[2131] Abū Yūsuf narrated it on p.230.

CLOTHING

بَابُ اللِّبَاسِ من الْحَرِيرِ وَالشُّهْرَةِ وَالْخَزِّ

278. WEARING SILK, DRESSING OSTENTATIOUSLY, AND FABRICS WOVEN OF BOTH WOOL AND SILK

٨٤٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ : أَنَّ عُمَرَ بْنَ الْخَطَّابِ رَضِيَ الله عَنْه بَعَثَ جَيْشًا ، فَفَتَحَ اللَّهُ عَلَيْهِم ، وَأَصَابُوا غَنَائِمَ كَثِيرَةً فَلَمَّا أَقْبَلُوا ، قَبَل

غَ عُمَرَ بْنَ الْخَطَّابِ رَضِيَ الله عَنْه أَنَّهم قَدْ دَنَوْا خَرَجَ بِالنَّاسِ لِيَسْتَقْبِلَهُمْ ، فَلَمَّا بَلَغَهُمْ خُرُوجُ عُمَرَ رَضِيَ الله عَنْه بِالنَّاسِ إِلَيْهِمْ لَبِسُوا مَا مَعَهُمْ من الْحَرِيرِ وَالدِّيبَاجِ ، فَلَمَّا رَآهُمْ عُمَرُ رَضِيَ الله عَنْه غَضِبَ ، وَأَعْرَضَ عَنْهُمْ ، ثُمَّ قَالَ : أَلْقُوا ثِيَابَ أَهْلِ النَّارِ ، فَلَمَّا رَأَوْا غَضَبَ عُمَرَ رَضِيَ الله عَنْه أَلْقَوْهَا ، ثُمَّ أَقْبَلُوا يَعْتَذِرُونَ ، فَقَالُوا : إِنَّا لَبِسْنَاهَا لِنُرِيَكَ فَيْءَ اللَّهِ الَّذِي أَفَاءَ عَلَيْنَا ، قَالَ : فَسُرِّيَ ذَلِكَ عَنْ عُمَرَ رَضِيَ الله عَنْه ، ثُمَّ رَخَّصَ فِي الْعَلَمِ الْإِصْبَعَ مِنْهُ وَالْإِصْبَعَيْنِ وَالثَّلَاثَةَ وَالْأَرْبَعَ .

846. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿUmar ibn al-Khaṭṭāb ؓ dispatched an army. Allah gave them victory and they gained much booty. When they returned and it reached ʿUmar ibn al-Khaṭṭāb ؓ that they were approaching, he went out along with people to receive them. When it reached them that ʿUmar ؓ had come out with people, they dressed themselves in the silk and brocade they had. When ʿUmar

ؓ saw them he was angry and turned away from them and said, ‘Take off the dress of the people of the Fire!’ When they saw ʿUmar’s anger ؓ, they took it off. Then they came and offered their excuses and said, ‘We dressed in it to show you the booty which Allah restored to us.’ That lifted [the anger][2132] from ʿUmar ؓ and he granted a concession for wearing [the amount of] a finger or two, or three or four.”[2133]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٤٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : قَالَ عَبْدُ الله بْنُ مَسْعُودٍ رَضِيَ الله عَنْه : اتَّقُوا الشُّهْرَتَيْنِ فِي اللِّبَاسِ : أَنْ يَتَوَاضَعَ أَحَدُكُمْ حَتَّى يَلْبَسَ الصُّوفَ ، أَوْ يَتَبَخْتَرَ حَتَّى يَلْبَسَ الْحَرِيرَ .

847. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, “ʿAbdullāh ibn Masʿūd ؓ said, ‘Beware of two ostentations in dress, that any of you becomes so humble that he wears wool,[2134] or he carries himself with such a haughty and conceited manner that he dresses in silk.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٤٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ سُلَيمانَ بن أَبِي الْمُغِيرَةَ قَالَ : سَأَلَ بُجَيْرٌ سَعِيدَ بنَ جُبَيْرٍ – وَأَنَا جَالِسٌ عِنْدَه – عَنْ لُبْسِ الْحَرِيرِ ، فَقَالَ سَعِيدٌ : غَابَ حُذَيْفَةُ بْنُ الْيَمَانِ رَضِيَ الله عَنْه غَيْبَةً ، فَاكْتَسَى بَنُوهُ وَبَنَاتُه قُمُصَ الْحَرِيرِ ، فَلَمَّا قَدِمَ أَمَرَ بِه ، فَنُزِعَ عَنِ الذُّكُورِ ، وَتُرِكَ عَلَى الْإِنَاثِ .

848. Muḥammad said, “Abū Ḥanīfah informed us that Sulaymān ibn Abī al-Mughīrah said, ‘While I was sitting with him Yaḥyā asked Saʿīd ibn Jubayr about dressing in silk. Saʿīd said, “Ḥudhayfah ibn al-Yamān ؓ was absent for a period and his son and daughters clothed themselves in shirts of silk. When he returned he ordered that they be taken off the males and left on the females.”’”[2135]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٤٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا الْهَيْثَمُ بْنُ أَبِي الْهَيْثَمِ الْبَصْرِيُّ : أَنَّ عُثْمَانَ بْنَ عَفَّانَ ، وَعَبْدَالرَّحْمنِ بْنَ عَوْفٍ ، وَأَبَا هُرَيْرَةَ ، وَأَنَسَ بْنَ مَالِكٍ ، وَعِمْرَانَ بْنَ حُصَيْنٍ ، وَحُسَيْنًا رَضِيَ الله عَنْهم ، وَشُرَيْحًا كَانُوا يَلْبَسُونَ الْخَزَّ .

849. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Al-Haytham ibn Abī’l-Haytham al-Baṣrī narrated to us that ʿUthmān ibn ʿAffān, ʿAbd ar-Raḥmān ibn ʿAwf, Abū Hurayrah, Anas ibn Mālik,ʿImrān ibn Ḥuṣayn, and Ḥusayn ؓ as well as Shurayḥ used to wear fabric woven from wool and raw-silk (*khazz*).’”[2136] [2137]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٥٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا سَعِيدُ بْنُ الْمَرْزُبَانِ عَنْ عبدِ اللَّهِ بْنِ أَبِي أَوْفَى رَضِيَ الله عَنْه : انَّه كَانَ يَلْبَسُ الْخَزَّ.

850. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Saʿīd ibn al-Marzubān narrated to us that ʿAbdullāh ibn Abī Awfā ؓ used to wear fabric woven from wool and raw-silk (*khazz*).’”[2138]

٨٥١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا زيدُ بْنُ أَبِي أُنَيْسَةَ عَنْ رَجُلٍ من أَهْلِ مِصرَ عَنِ النَّبِيِّ صلى الله عَلَيْهِ وَسَلَّمَ أنه أَخَذَ الْحَرِيرَ وَالذَّهَبَ بِيَدِه، ثُمَّ قَالَ : هَذَا مُحَرَّمٌ لِلذُّكُورِ من أُمَّتِي .

851. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Zayd ibn Abī Anīsah narrated to us from a man[2139] of the people of Egypt that the Prophet ﷺ took hold of silk and gold in his hand said, “This is forbidden to the males of my community.”’”[2140]

قَالَ مُحَمَّدٌ : وَلَا نَرَى بِهِ لِلإِنَاثِ بَأْساً ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We see no harm in it for women, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٥٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّهُ قَالَ : لا بَأْسَ بِالْحَرِيرِ وَالذَّهَبِ لِلنِّسَاءِ .

852. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘There is no harm in silk and gold for women.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٥٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ عَمْرِو بْنِ دِينَارٍ عَنْ عَائِشَةَ رَضِيَ الله عَنْهَا أَنَّهَا حَلَّتْ أَخَوَاتِهَا بِالذَّهَبِ، وَأَنَّ ابْنَ عُمَرَ رَضِيَ الله عَنْهما حَلَّى بَنَاتِه بِالذَّهَبِ .

853. Muḥammad said, “Abū Ḥanīfah informed us from ʿAmr ibn Dīnār that ʿĀ’ishah ﵂ decked her sisters with gold jewellery and that Ibn ʿUmar ﵄ decked his daughters with gold jewellery.”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ لِبَاسِ جُلُودِ الثَّعَالِبِ وَدِبَاغِ الْجِلْدِ

279. WEARING FOX-PELTS AND TANNING HIDES

٨٥٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ : أَنَّهُ رَآى عَلَى إِبْرَاهِيمَ قَلَنْسُوَةَ ثَعَالِبَ، وَكَانَ لا يَرَى بَأْساً بِجُلُودِ النَّمِرِ .

854. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that he had seen Ibrāhīm wearing a cap of a fox-pelt and that he had seen no harm in leopard skins.”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”[2141]

٨٥٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ عُمَرَ رَضِيَ الله عَنْه قَالَ: ذَكوةُ كُلِّ مَسْكٍ دِبَاغه .

855. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that ʿUmar ؓ said, ‘The sacrifice (*dhakāh*)[2142] of every hide[2143] is by tanning it.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٥٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ : كُلُّ شَيْءٍ منع الْجِلْدَ من الْفَسَادِ فَهُوَ دِبَاغٌ .

856. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Everything which prevents a hide from decomposition is [considered] tanning.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ التَّخَتُّمِ بِالذَّهَبِ وَالْحَدِيدِ وَغَيْرِهِ وَنَقْشِ الْخَاتَمِ

280. WEARING SIGNET-RINGS OF GOLD, IRON AND OTHER MATERIALS, AND HAVING ENGRAVINGS ON A SIGNET-RING

٨٥٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ قَالَ : كَانَ نَقْشُ خَاتَمِ إِبْرَاهِيمَ النَّخَعِيِّ : (اللَّهُ وَلِيُّ إِبْرَاهِيمَ) ، قَالَ : وَكَانَ خَاتَمُ إِبْرَاهِيمَ من حَدِيدٍ .

857. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād who said, ‘The engraving on Ibrāhīm’s signet-ring was, “Allah is the Guardian Friend of Ibrāhīm.” He said, “The signet-ring which Ibrāhīm[2144] had was of iron.”’”[2145]

قَالَ مُحَمَّدٌ : لا يُعْجِبُنَا أَنْ نَتَخَتَّمَ بِالذَّهَبِ وَالْحَدِيدِ ، وَلَا بِشَيْءٍ مِن الْحِلْيَةِ غَيْرِ الْفِضَّةِ لِلرِّجَالِ ، فَأَمَّا النِّسَاءُ فَلا بَأْسَ لَهُنَّ بِالذَّهَبِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “Wearing signet rings of gold and iron, or any other type of jewellery, does not please us, except for silver for men. As for women, there is no harm in them wearing gold, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٥٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا إِبْرَاهِيمُ بْنُ مُحَمَّدِ بْنِ الْمُنْتَشِرِ عَنْ أَبِيهِ : أَنَّهُ كَانَ نَقْشُ خَاتَمِ مَسْرُوقٍ : (بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ) ، قَالَ : وَكَانَ نَقْشُ خَاتَمِ حَمَّادٍ : (لا إِلَهَ إِلَّا اللَّهُ) .

858. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ibrāhīm ibn Muḥammad ibn al-Muntashir narrated to us from his father that the engraving on Masrūq’s signet ring was “In the name of Allah, the All-Merciful, the Most Merciful.”’ He said, ‘The engraving on Ḥammād’s signet ring was “There is no god but Allah.”’”[2146]

قَالَ مُحَمَّدٌ : لا نَرَى بَأْساً أَنْ يُنْقَشَ فِي الْخَاتَمِ ذِكْرُ اللَّهِ مَا لَمْ يَكُنْ آيَةً تَامَّةً ، فَإِنَّ ذَلِكَ لا يَنْبَغِي أَنْ يَكُونَ فِي يَدِهِ فِي الْجَنَابَةِ ، وَالَّذِي عَلَى غَيْرِ وُضُوءٍ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We see no harm in engraving signet rings with *dhikr* of Allah as long as it is not a complete *āyah*, because such[2147] ought not to be on one’s hand when one is in need of *ghusl* because of sexual intercourse or ejaculation, or in need of *wuḍū’*. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

[2132] It is not *ḥalāl* for men to wear silk and brocade except for a little, which is pardonable, and that is the measure of three or four fingers such as badges and garment borders and edges.

[2133] Abū Yūsuf narrated it on p.229.

[2134] Wool was at that time the fabric of the poor, and was regarded as coarse. – Trans.

[2135] Abū Yūsuf narrated it on p.229.

[2136] *khazz* is the name of an animal [thought to be the beaver] and then the garment derived from its fur was given the same name. In the hadith of ʿAlī there is that he forbade riding on *khazz* [skin] and sitting on it. The commonly known *khazz* is woven of wool and silk and is permissible, and the Companions and Followers dressed in it. Thus the prohibition of it is because of imitating non-Arabs and imitating the customs of the people of luxurious self-indulgence.

[2137] Abū Yūsuf narrated it on p.231.

[2138] Abū Yūsuf narrated it on p.231.

[2139] He was ʿĀ'idh ibn Saʿīd ibn ʿAbdullāh the Egyptian.

[2140] At-Tirmidhī narrated the like of it under "clothing" in the chapter on "what has been narrated about silk," and an-Nasā'ī in *al-Mujtabā'* in the "book of self adornment" in the chapter on "the prohibition of gold."

[2141] Abū Yūsuf narrated it on p.231.

[2142] *dhakāh* is slaughter, but with *z* [i.e., *zakāh*] it means purification. [Varying texts give both readings, but it seems that the former is the more sound as it is identical to Abū Yūsuf's transmission of the same hadith from Abū Ḥanīfah. – Trans.]

[2143] *mask* is a hide.

[2144] It does not mean pure iron because that is not permissible, but on the contrary iron whose die [in which a stone may be set or the seal engraved] is of silver as is in the narration of Abū Dāwūd, "The seal-ring of the Prophet ﷺ was of curved iron on which was silver."

[2145] Abū Yūsuf narrated it on p.232.

[2146] Abū Yūsuf narrated it on p.232.

[2147] Meaning, a ring on which there is an entire *āyah*.

JIHAD

بَابُ الْجِهَادِ فِي سَبِيلِ اللَّهِ وَأَنْ يَدْعُوا مَنْ لَمْ تَبْلُغْهُ الدَّعْوَةُ

281. JIHAD IN THE WAY OF ALLAH AND CALLING THOSE WHOM THE CALL HAS NOT REACHED [TO ALLAH]

٨٥٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ علقمة بْنِ مَرْثَدٍ عَنْ ابن بُرَيْدَةَ عَنْ أَبِيهِ رَضِيَ الله عَنْه عَنِ النَّبِيّ صلى الله عَلَيْهِ وَسَلَّمَ قَالَ : كَانَ إِذَا بَعَثَ جَيْشًا قَالَ : اغْزُوا بِسْمِ اللَّهِ وَفِي سَبِيلِ اللَّهِ ، فَقَاتِلُوا مَنْ كَفَرَ بِاللَّهِ ، لا تَغُلُّوا ، وَلَا تَغْدِرُوا ، وَلَا تَقْتُلُوا وَلِيدًا ، وَإِذَا حَاصَرْتُمْ حِصْنًا أَوْ مَدِينَةً فَادْعُوهُمْ إِلَى الإِسْلام ، فَإِنْ أَسْلَمُوا فَأَخْبِرُوهُمْ أَنَّهُمْ مِن الْمُسْلِمِينَ ، لَهُمْ مَالَهُمْ ، وَعَلَيْهِم مَا عَلَيْهِم ، وَادْعُوهُمْ إِلَى التَّحَوُّلِ إِلَى دَارِ الإِسلام ، فَإِنْ أَبَوْا فَأَخْبِرُوهُمْ أَنهم كَأَعْرَابِ الْمُسْلِمِينَ ، وَإِنْ أَبَوْا فَادْعُوهُمْ إِلَى إِعْطَاءِ الْجِزْيَة ، فَإِنْ فَعَلُوا فَأَخْبِرُوهُمْ أَنَّهُمْ ذِمِّيَّةٌ ، وَإِنْ أَبَوْا أَنْ يُعْطُوا الْجِزْيَةَ فَانْبُذُوا إِلَيْهِم ، ثمَّ قَاتِلُوهُم ، وَإِنْ أَرادُوكُمْ أَنْ تُنْزِلُوهُمْ عَلَى حُكْمِ اللَّهِ فَلَا تُنْزِلُوهُم فَإِنَّكُم لا تَدْرُونَ مَا حُكْمُ اللَّهِ فِيهِم وَلَكِنْ أَنْزِلُوهُم عَلَى حُكْمِكُمْ ، ثُمَّ احْكُمُوا فِيهِمْ ، و إِذَا أَرَادُوا مِنْكُمْ أَنْ تُعْطُوهُم ذِمَّةَ اللَّهِ ؛ فَلا تُعْطُوهُم و لَكِنْ أَعْطُوهُم ذِمَمَكُمْ و ذِمَمَ آبَائِكُمْ فَإِنَّكُم أَن تُخْفِرُوا ذِمَمَكُم خَيْرٌ مِن أَنْ تُخْفِرُوا ذِمَّةَ اللَّهِ عَزَّ و جَلَّ .

859. Muḥammad said, “Abū Ḥanīfah informed us from ʿAlqamah ibn Marthad from Ibn Buraydah from his father ؓ from the Prophet ﷺ . He [Buraydah] said, ‘When he ﷺ sent out an army he would say,

“Go on the military expedition[2148] in the name of Allah and in the Way of Allah.[2149] Fight whoever disbelieves in Allah; do not steal from the booty, nor act treacherously. Do not mutilate[2150] and do not kill a child.[2151] Whenever you besiege a fortress or a city, call them to Islam, and if they accept Islam then inform them that they are Muslims. They are owed what they are owed and they are responsible for what they are responsible for. Invite them to move[2152] to the Abode of Islam [*Dār al-Islām*], but if they refuse, inform them that they are like desert Arab[2153] Muslims. If they refuse [Islam], then invite them to pay *jizyah*. If they do so, then inform them that they have entered into a compact (*dhimmah*). If they refuse to pay *jizyah*, dissolve [the negotiations] with them and then fight them. If they want you to settle with them according to (*anzala ʿalā*) the ruling of Allah then do not settle with them according to [that] because you do not know what the ruling of Allah about them is, but settle with them according to your judgement and then pass judgement regarding them. If they want you to give them the compact of Allah, do not give [it to] them, but give them your compacts and your parents’ compacts because it is better that you violate your compacts than that you violate the compact of Allah, mighty is He and majestic.”[2154]

قَالَ مُحَمَّدٌ: وَبِهِ نَأْخُذُ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى.

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٦٠ – مُحَمَّدٌ قَالَ: أَخْبَرَنَا أَبُو حَنِيفَةَ عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ: إِذَا قَاتَلْتَ قَوْمًا فَادْعُهُمْ إِذَا لَمْ تَبْلُغْهُمُ الدَّعْوَةُ.

860. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘If you fight a people, invite them [to Islam] if the invitation has not already reached them.’”[2155]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، فَإِنْ كَانَتْ بَلَغَتْهُمُ الدَّعْوَةُ فَإِنْ شِئْتَ فَادْعُهُمْ ، وَإِنْ شِئْتَ فَلَا تَدْعُهُمْ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رحمه الله تَعَالَى .

Muḥammad said, “We adhere to this. If the invitation has reached them, you may if you wish[2156] invite them or not invite them and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٦١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةَ قَالَ : حَدَّثَنَا عَبْدُ اللَّهِ بْنُ دَاوُدَ عَنِ الْمُنْذِرِ بْنِ أَبِي حِمْصَةَ قَالَ : بَعَثَهُ عُمَرُ رَضِيَ اللهُ عَنْهُ فِي جَيْشٍ إِلَى مِصْرَ ، فَأَصَابُوا غَنَائِمَ ، فَقَسَمَ لِلْفَارِسِ سَهْمَيْنِ ، وَلِلرَّاجِلِ سَهْمًا ، فَرَضِيَ بِذَلِكَ عُمَرُ رَضِيَ اللهُ عنه .

861. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘ʿAbdullāh[2157] ibn Dā’ūd narrated to us from al-Mundhir ibn Abī Ḥimṣah[2158] who said that ʿUmar ؓ sent him with an army to Egypt where they gained booty and he apportioned the cavalry two shares[2159] each and infantry a single share, and ʿUmar ؓ was pleased with that.”””[2160]

قَالَ مُحَمَّدٌ : هَذَا قَوْلُ أَبِي حَنِيفَةَ رحمه الله تَعَالَى ، وَلَسْنَا نَأْخُذُ بِهَذَا ، وَلَكِنَّا نَرَى لِلْفَارِسِ ثَلَاثَةَ أَسْهُمٍ : سَهْمًا لَهُ ، وَسَهْمَيْنِ لِفَرَسِهِ .

Muḥammad said, “That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him, but we do not adhere to this. On the contrary, we think that cavalry have three shares each, a single one for the rider and two shares because of his horse.”

٨٦٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ : أَنَّهُ كَانَ يَسْتَحِبُّ النَّفْلَ لِيُغْرِيَ بِذَلِكَ الْمُسْلِمِينَ عَلَى عَدُوِّهِمْ .

862. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm used to prefer giving extra booty to urge the Muslims on to fight their enemy.”[2161]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رَحِمَهُ اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٦٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قال : النَّفَلُ أَنْ يَقُولَ: مَن جَاءَ بِسَلَبٍ فَهُوَ لَهُ، وَمَن جَاءَ بِرَأسٍ فَله كَذَا وَكَذَا، فَهَذَا النَّفَلُ.

863. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘“Giving extra booty” means that one says, “Whoever brings the personal effects[2162] [of an enemy fighter whom he has killed] they are his. Whoever brings a head will have such-and-such.” This is [what is meant by] giving extra booty.’”

قَالَ مُحَمَّدٌ : وبِهذا نَأخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رحِمَه اللَّهُ تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٦٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حَنيفة عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قال: مَا أَحْرَزَ أَهْلُ الْحَرْبِ من أَمْوَالِ الْمُسْلِمِينَ ثُمَّ أَصَابَهُ الْمُسْلِمُونَ فَهُوَ رَدٌّ عَلَى صَاحِبِه، إِنْ أَصَابَه قَبْلَ أَنْ يُقْسَمَ الْفَيْءُ ، وَإِنْ أَصَابَه بَعْدَ مَا قُسِمَ فَهُوَ أَحَقُّ به بِثمنه.

864. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Whatever people with whom we are at war obtain of Muslims’ property and the Muslims regain it [from the enemy] is to be returned to its owner, if he comes across it before the spoils are divided. If he comes across it after they have been divided, he has more right to it [if he pays] its price.’”[2163]

قَالَ مُحَمَّدٌ : وَالثَّمن الْقِيمَةُ ، وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رحمه الله .

Muḥammad said, “The price is the value. We adhere to this and it is the verdict of Abū Ḥanīfah ؒ.”

٨٦٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ : أَنَّ كُلَّ شَيْءٍ أَصَابَه الْعَدُوُّ، ثُمَّ ظَهَرَ عَلَيْهِ الْمُسْلِمُونَ بَعْدَ ذَلِكَ ، فَإِنْ وَجَدَه صَاحِبُه قَبْلَ أَنْ يَقْسِمَه الْمُسْلِمُونَ فَهُوَ أَحَقُّ بِه ، وَإِنْ وَجَدَه بَعْدَ مَا قُسِمَ فَهُوَ أَحَقُّ بِه بِالثَّمَن .

865. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that everything which the enemy obtains and which the Muslims later regains, if its owner finds it before the Muslims divide it up he has more right to it. If he finds it after it has been divided up, he has more right to it [if he pays] its price.”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَإِنَّمَا يَعْنِي بِالثَّمَنِ الْقِيمَةَ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رحمه الله تَعَالَى .

Muḥammad said, “We adhere to this. He only meant by the price its value, and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

[2148] Seeking aid in His Name.

[2149] Seeking His good favour.

[2150] Meaning to cut off extremities such as the nose and ears. The Prophet ﷺ forbade mutilation.

[2151] A small child below the age of puberty.

[2152] This is one of the consequences of the invitation to Islam.

[2153] Who clung to their residence in the countryside.

[2154] Muslim narrated the like of it under “jihad and the *sīrah*” in the chapter on “the imam (*khalīfah*) appointing *amirs*.”

[2155] Ibn Abī Shaybah narrated other traditions with similar meanings in the *Muṣannaf*, vol.6, pp.479-80.

[2156] It is preferable to invite [to Islam] those whom the invitation has already reached.

[2157] And in another copy ʿUbaydullāh.

[2158] In the *Āthār* of Abū Yūsuf it is Abū Ḥumayṣah.

[2159] The Imam also sought to argue by the hadith of Ibn ʿUmar: “The Prophet ﷺ apportioned two shares to cavalry and one share to infantry,” (ad-Dāraquṭnī narrated it) and by that which Abū Dāwūd narrated from Mujammaʿ ibn Jāriyah in which there was, “So he gave cavalry two shares and he gave infantry one share.”

[2160] Abū Yūsuf narrated it on p.171.

[2161] Abū Yūsuf narrated it on p.194.

[2162] *salab* is the deceased’s clothes and weapons.

[2163] Abū Yūsuf narrated it on p.195.

MISCELLANEOUS

بَابُ فَضَائِلِ الصَّحَابَةِ ؓ وَمن أَصْحَابِ النَّبِيِّ ﷺ من كَانَ يَتَذَاكَرُ الْفِقْهَ

282. THE MERITS OF THE COMPANIONS, AND THOSE OF THE COMPANIONS OF THE PROPHET ﷺ WHO USED TO CONFER WITH EACH OTHER ON *FIQH*

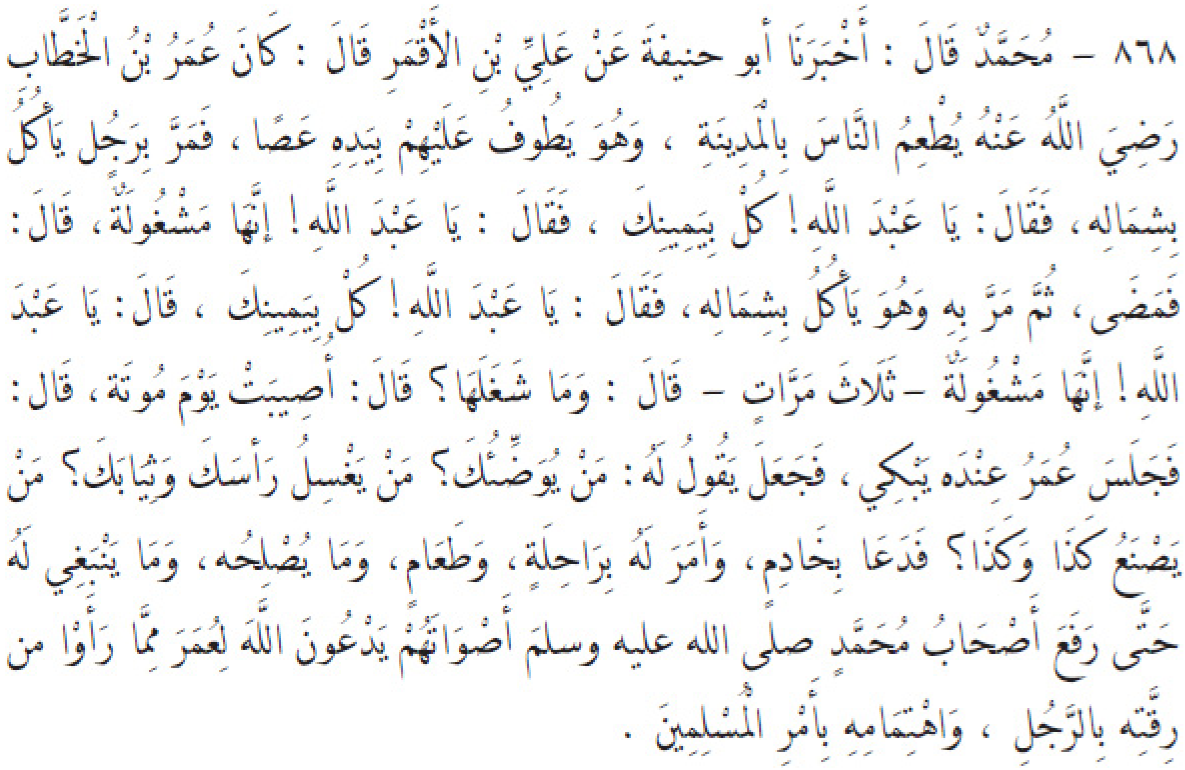
٨٦٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حنيفة عَنِ الْهَيْثَم عَنِ الشَّعْبِيِّ قَالَ : كَانَ سِتَّةٌ من أَصْحَابِ مُحَمَّدٍ صَلَّى اللَّهُ عليهِ وسلمَ يَتَذَاكَرُونَ الْفِقْهَ، منهُمْ : عَلِيُّ بْنُ أَبِي طَالِبٍ، وَأُبَيٌّ، وَأَبُو مُوسَى عَلَى حِدَةٍ ، وَعُمَرُ ، وَزَيْدٌ ، وَابْنُ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُمْ .

866. Muḥammad said, “Abū Ḥanīfah informed us from al-Haytham that ash-Shaʿbī said, ‘There were six of the Companions of Muḥammad ﷺ who would confer with each other on *fiqh*: ʿAlī ibn Abī Ṭālib, Ubayy [ibn Kaʿb], Abū Mūsā [al-Ashʿarī] on one hand, and ʿUmar [ibn al-Khaṭṭāb], Zayd [ibn Thābit], and Ibn Masʿūd ؓ.’”[2164]

٨٦٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّ عُمَرَ رَضِيَ اللَّهُ عَنْهُ مَسَّ النَّبِيَّ صلى اللَّهُ عليهِ وسلمَ وَهُوَ مَحْمُومٌ ، فَقَالَ عُمَرُ : أَيَأْخُذُكَ هكَذَا وَأَنْتَ رَسُولُ اللَّهِ ؟ قَالَ: إِنَّهَا إِذَا أَخَذَتْنِي شَقَّتْ عَلَيَّ ، إِنَّ أَشَدَّ هذهِ الأَمةِ بَلاءً نَبِيُّهَا ، ثُمَّ الْخَيْرُ فَالْخَيْرُ، وَكَذَلِكَ الأَنْبِيَاءُ قَبْلَكُمْ وَالأُمَمُ .

867. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿUmar ؓ touched the Prophet ﷺ when he was feverish. ʿUmar said, ‘Does it affect you thus, even though you are

the Messenger of Allah ﷺ?' He said, 'When [fever] affects me, it does so very severely. The most severe of this community in affliction is their Prophet, and then the best, and then the best. It was thus with the prophets and the communities before you.'"[2165]



٨٦٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة عَنْ عَلِيِّ بْنِ الأَقْمَرِ قَالَ : كَانَ عُمَرُ بْنُ الْخَطَّاب رَضِيَ اللَّهُ عَنْهُ يُطْعِمُ النَّاسَ بِالْمَدِينَةِ ، وَهُوَ يَطُوفُ عَلَيْهِمْ بِيَدِهِ عَصًا ، فَمَرَّ بِرَجُلٍ يَأْكُلُ بِشِمَالِهِ ، فَقَالَ : يَا عَبْدَ اللَّهِ ! كُلْ بِيَمِينِكَ ، فَقَالَ : يَا عَبْدَ اللَّهِ ! إِنَّهَا مَشْغُولَةٌ ، قَالَ : فَمَضَى ، ثُمَّ مَرَّ بِهِ وَهُوَ يَأْكُلُ بِشِمَالِهِ ، فَقَالَ : يَا عَبْدَ اللَّهِ ! كُلْ بِيَمِينِكَ ، قَالَ : يَا عَبْدَ اللَّهِ ! إِنَّهَا مَشْغُولَةٌ – ثَلَاثَ مَرَّاتٍ – قَالَ : وَمَا شَغَلَهَا ؟ قَالَ : أُصِيبَتْ يَوْمَ مُوتَة ، قَالَ : فَجَلَسَ عُمَرُ عِنْدَهُ يَبْكِي ، فَجَعَلَ يَقُولُ لَهُ : مَنْ يُوَضِّئُكَ ؟ مَنْ يَغْسِلُ رَأْسَكَ وَثِيَابَكَ ؟ مَنْ يَصْنَعُ كَذَا وَكَذَا ؟ فَدَعَا بِخَادِمٍ ، وَأَمَرَ لَهُ بِرَاحِلَةٍ ، وَطَعَامٍ ، وَمَا يُصْلِحُهُ ، وَمَا يَنْبَغِي لَهُ حَتَّى رَفَعَ أَصْحَابُ مُحَمَّدٍ صلى الله عليه وسلمَ أَصْوَاتَهُمْ يَدْعُونَ اللَّهَ لِعُمَرَ مِمَّا رَأَوْا من رِقَّتِهِ بِالرَّجُلِ ، وَاهْتِمَامِهِ بِأَمْرِ الْمُسْلِمِينَ .

868. Muḥammad said, "Abū Ḥanīfah informed us from ʿAlī ibn al-Aqmar who said, 'ʿUmar ibn al-Khaṭṭāb ﷺ used to feed people in Madīnah. He would go round and about among them with a staff in his hand. He passed a man eating with his left hand. He said, "Slave of Allah, eat with your right hand." He answered, "Slave of Allah, it is otherwise occupied." He went on his way, but later passed by him and he was again eating with his left hand. So he said, "Slave of Allah, eat with your right hand," and he answered three times, "Slave of Allah, it is otherwise occupied." He asked, "What is occupying it?" He said, "It was injured on the day of Mūtah." ʿUmar sat with him weeping and began to say to him, "Who helps you in doing *wuḍū'*? Who washes your hair and your clothes? Who does such-and-such and such-and-such?" He called for a servant for him, and ordered a she-camel as a mount for him and food, and things that would be of use to him and appropriate for him, to such an

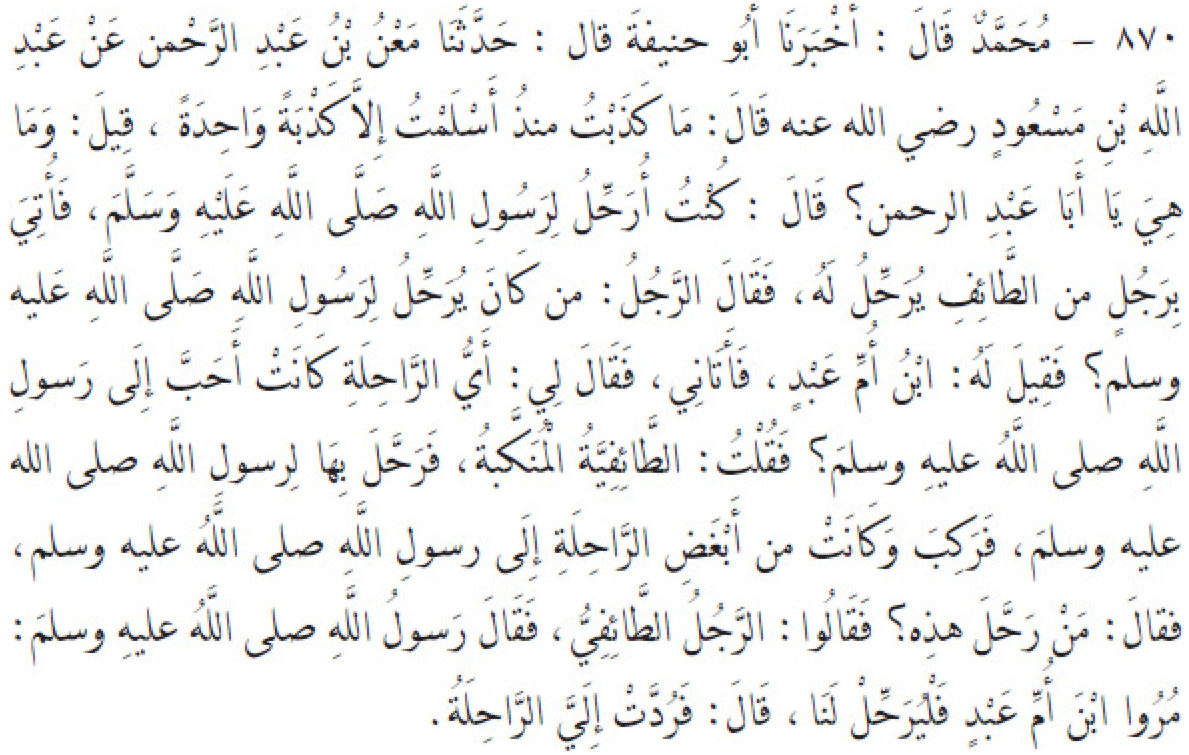
extent that the Companions of Muḥammad ﷺ raised their voices supplicating Allah for ʿUmar because of his kindness and compassion for the man which they had seen, and his concern for the affairs of the Muslims.’”[2166]

٨٦٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حَنِيفَةِ قال : حَدَّثَنَا أَبُو جَعْفَرٍ مُحَمَّدُ بْنُ عَلِيٍّ قَالَ : جَاءَ عَلِيُّ بْنُ أَبِي طَالِبٍ إِلَى عُمَرَ بْنِ الْخَطَّابِ رضي الله عنهما حِينَ طُعِنَ ، فَقَالَ : رَحِمَكَ اللَّهُ ، فَوَاللَّهِ مَا فِي الْأَرْضِ أَحَدٌ كُنْتُ أَلْقَى اللَّهَ بِصَحِيفَتِهِ أَحَبَّ إِلَيَّ منك .

869. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Abū Jaʿfar Muḥammad ibn ʿAlī narrated to us, “ʿAlī ibn Abī Ṭālib came to ʿUmar ibn al-Khaṭṭāb ؓ when he had been stabbed and said, ‘May Allah be merciful to you. There is no one on the earth with whose record[2167] I would rather meet Allah than yours.’”’”[2168]

بَابُ الصِّدْقِ وَالْكَذِبِ وَالْغِيبَةِ وَالْبُهْتَانِ

283. TRUTHFULNESS, LYING, BACKBITING AND SLANDER



٨٧٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حنيفةَ قال : حَدَّثَنَا مَعْنُ بْنُ عَبْدِ الرَّحْمن عَنْ عَبْدِ
اللَّهِ بْنِ مَسْعُودٍ رضي الله عنه قَالَ: مَا كَذَبْتُ منذُ أَسْلَمْتُ إِلاَّ كَذْبَةً وَاحِدَةً ، قِيلَ : وَمَا
هِيَ يَا أَبَا عَبْدِ الرحمن؟ قَالَ : كُنْتُ أُرَحِّلُ لِرَسُولِ اللَّهِ صَلَّى اللَّهِ عَلَيْهِ وَسَلَّمَ، فَأَتِيَ
بِرَجُلٍ من الطَّائِفِ يُرَحِّلُ لَهُ، فَقَالَ الرَّجُلُ: من كَانَ يُرَحِّلُ لِرَسُولِ اللَّه صَلَّى اللَّهِ عليه
وسلم؟ فَقِيلَ لَهُ: ابْنُ أُمِّ عَبْدٍ، فَأَتَانِي، فَقَالَ لِي: أَيُّ الرَّاحِلَةِ كَانَتْ أَحَبَّ إِلَى رَسولِ
اللَّهِ صلى اللَّهُ عليهِ وسلمَ؟ فَقُلْتُ: الطَّائِفِيَّةُ المُنَكَّبَةُ، فَرَحَّلَ بِهَا لِرسولِ اللَّهِ صلى الله
عليه وسلمَ، فَرَكِبَ وَكَانَتْ من أَبْغَضِ الرَّاحِلَةِ إِلَى رسولِ اللَّهِ صلى اللَّهُ عليه وسلم،
فقالَ: مَنْ رَحَّلَ هذِهِ؟ فَقَالُوا : الرَّجُلُ الطَّائِفِيُّ، فَقَالَ رَسولُ اللَّهِ صلى اللَّهُ عليهِ وسلمَ:
مُرُوا ابْنَ أُمِّ عَبْدٍ فَلْيُرَحِّلْ لَنَا ، قَالَ: فَرُدَّتْ إِلَيَّ الرَّاحِلَةُ .

870. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Maʿn ibn ʿAbd ar-Raḥmān narrated to us that ʿAbdullāh ibn Masʿūd ؓ said, “I have not lied since I accepted Islam except for one single lie.” Someone asked, “What was that, Abū ʿAbd ar-Raḥmān?” He said, “I used to saddle the camel for the Messenger of Allah ﷺ, but someone brought him a man from Ṭā’if to saddle up for him who[2169] asked, ‘Who used to saddle up for the Messenger of Allah ﷺ?’ They said, ‘Ibn Umm ʿAbd.’[2170] So he came to me and asked me, ‘Which mount is preferable to the Messenger of Allah ﷺ?’ and I said, ‘The Makkan Ṭā’ifan one.’[2171] So he saddled it for the Messenger of Allah ﷺ who mounted it, and it was one of the most hateful mounts to the Messenger of Allah ﷺ, and so he said, ‘Who saddled up this one?’ They said, ‘The Ṭā’ifī man.’ The Messenger of Allah ﷺ said, ‘Tell Ibn Umm ʿAbd to saddle up for us.’ So [the position of saddling] the mount was returned to me.”””

٨٧١ - مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة عَنْ إِبْرَاهِيمَ بْنِ مُحَمَّدِ بْنِ الْمُنْتَشِرِ عَنْ أَبِيهِ عن مَسْرُوقٍ : أَنَّهُ كَانَ إذا حَدَّثَ عَنْ عَائِشَةَ رضي الله عنها قال : حَدَّثَتْنَا الصِّدِّيقَةُ بِنْتُ الصِّدِّيقِ حَبِيبَةُ حَبِيبِ اللَّهِ .

871. Muḥammad said, "Abū Ḥanīfah informed us from Ibrāhīm ibn Muḥammad ibn al-Muntashir from his father from Masrūq that when he narrated from ʿĀ'ishah ﵂ he would say, 'The Ṣiddīqah [the utterly truthful one], who was the beloved of the Beloved of Allah and the daughter of the Ṣiddīq [Abū Bakr] narrated to us.'"

٨٧٢ - مُحَمَّدٌ قَالَ : أَخْبَرَنَا أَبُو حنيفة عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ : إِذَا قُلْتَ فِي الرَّجُلِ مَا فِيهِ فَقَدِ اغْتَبْتَهُ ، وَإِنْ قُلْتَ مَا لَيْسَ فِيهِ فَقَدْ بَهَتَّهُ .

872. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm, 'If you say about a man that which is genuinely in him, it is backbiting, but if you say that which is not in him, you have slandered him.'"[2172]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رحمه الله تَعَالَى .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

بَابُ صِلَةِ الرَّحِمِ وَبِرِّ الْوَالِدَيْنِ

284. JOINING TIES OF KINSHIP AND TREATING ONE'S PARENTS WELL

٨٧٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة عَنْ نَاصِحٍ عَنْ يَحْيَى بْنِ أَبِي كَثِيرٍ الْيَمَانِيِّ عَنْ أَبِي سَلَمَةَ عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عنه عنِ النَّبِيِّ صلى اللَّهُ عليهِ وسلمَ قَالَ : مَا مِنْ عَمَلٍ أُطِيعَ اللَّهُ فِيهِ أَجَلَّ ثَوَابًا من صِلَةِ الرَّحِمِ ، وَمَا من عَمَلٍ عُصِيَ اللَّهُ فِيهِ أَعْجَلَ عَقُوبَةً من الْبَغْيِ ، وَالْيَمِينُ الْفَاجِرَةُ تَدَعُ الدِّيَارَ بَلاقِعَ .

873. Muḥammad said, “Abū Ḥanīfah informed us from Nāṣiḥ from Yaḥyā ibn Abī Kathīr al-Yamānī from Abū Salamah from Abū Hurayrah ؓ that the Prophet ﷺ said, ‘There is no action in which Allah is obeyed that has a more magnificent reward than joining ties of kinship. There is no action in which Allah is disobeyed that has a swifter punishment[2173] than fornication and adultery.[2174] A false oath leaves homes barren[2175]’”

٨٧٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة عن محمدِ بنِ سُوقَةَ : أَنَّ رَجُلاً أَتَى النَّبِيَّ صلى الله عليه وسلم فقالَ: أَتَيْتُكَ لِأُجَاهِدَ مَعَكَ ، وَتَرَكْتُ وَالِدَيَّ يَبْكِيَانِ ، قَالَ: فَانْطَلِقْ ، فَأَضْحِكْهُمَا كَمَا أَبْكَيْتَهُمَا .

874. Muḥammad said, “Abū Ḥanīfah informed us from Muḥammad ibn Sūqah, ‘A man[2176] came to the Prophet ﷺ and said, “I have come to you to wage jihad alongside you and I have left my parents weeping.” He said, “Go and make them laugh just as you have made them weep.”’”[2177]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَلَا يَنْبَغِي إِلَّا بِإِذْنِ وَالِدَيْهِ مَا لَمْ يُضْطَرَّ الْمُسْلِمُونَ إِلَيْهِ ، فَإِذَا اضْطُرُّوا إِلَيْهِ فَلَا بَأْسَ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رحمه الله تَعَالَى .

Muḥammad said, “We adhere to this. It is not right without the permission of his parents, as long as the Muslims are not pressed by great need, but when they are under great pressure and in great need of it then there is no harm.[2178] That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

بَابُ مَا يَحِلُّ لَكَ من مَالِ وَلَدِكَ

285. WHAT OF YOUR CHILDREN’S PROPERTY IS PERMISSIBLE FOR YOU

٨٧٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عنْ عائشة رضي الله عنها قالتْ : أَفْضَلُ مَا أَكَلْتُمْ كَسْبُكُمْ ، وَإِنَّ أَوْلادَكُمْ من كَسْبِكُمْ .

875. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that ʿĀ’ishah ﵂ said, ‘The best thing which you can eat is your own earnings, and [the earnings of] your children are a part of your earnings.’”[2179]

قَالَ مُحَمَّدٌ : لا بَأْسَ بِهِ إِذَا كَانَ مُحْتَاجًا أَنْ يَأْكُلَ من مَالِ ابْنِهِ بِالْمَعْرُوفِ ، فَإِنْ كَانَ غَنِيّاً فَأَخَذَ مِنْهُ شَيْئًا فَهُوَ دَيْنٌ عَلَيْهِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رحمه الله تَعَالَى .

Muḥammad said, “There is no harm, if one is in need, in eating from one’s son’s earnings in a moderate fashion. If one is of independent means[2180] and takes something from him, it is a debt which one owes, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٧٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قال : لَيْسَ لِلأَبِ من مَالِ ابْنِهِ شَيْءٌ إِلاَّ أَنْ يَحْتَاجَ إِلَيْهِ من طَعَامٍ، أَوْ شَرَابٍ، أَوْ كِسْوَةٍ.

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رحمه الله تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

بَابُ مَنْ دَلَّ عَلَى خَيْرٍ كَمَن فعَلَه

286. ONE WHO SHOWS THE WAY TO GOOD ACTION IS THE SAME AS SOMEONE WHO DOES IT

٨٧٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة قالَ : أَخْبَرَنَا عَلْقَمةُ بنُ مَرْثَدٍ يَرْفَعُ الْحَدِيثَ إِلَى رسولِ اللَّهِ صَلَّى اللَّهُ عليهِ وسلَّمَ قَالَ: جَاءَ رَجُلٌ يَسْتَحْمِلُه، فَقَالَ رَسولُ اللَّهِ صَلَّى اللَّهُ عليهِ وسلمَ : مَا عِنْدِي مَا أَحْمِلُكَ عَلَيْهِ ، وَلَكِنِّي سَأَدُلُّكَ عَلَى فَتًى من فِتْيَانِ الأَنْصَارِ ، انْطَلِقْ فَإِنَّكَ سَتَجِدُه فِي مَقْبَرَةِ بَنِي فُلانٍ يَرْمِي مَعَ أَصْحَابٍ لَهُ ، فَإِنَّ عِنْدَه بَعِيرًا سَيَحْمِلُكَ عَلَيْهِ، فَانْطَلَقَ الرَّجُلُ حَتَّى أَتَى مَقْبَرَةَ بَنِي فُلانٍ، فَوَجَدَه فِيهَا يَرْمِي مَعَ أَصْحَابٍ لَهُ، فَقَالَ لَهُ: إِنِّي أَتَيْتُ رَسولَ اللَّهِ صلى اللَّهُ عليهِ وسلمَ أَسْتَحْمِلُهُ ، فَلَمْ أَجِدْ عِنْدَه شَيْئًا ، فَأَخْبَرَ الْخَبَرَ ، فَقَالَ: آللهِ الَّذِي لا إِلَهَ إِلاَّ هُوَ لَذكَرَ هَذَا لَكَ رسولُ اللَّهِ صلى اللَّهُ عليهِ وسلمَ؟ فَقَالَ له ذَلِكَ مَرَّتَيْنِ ، فَانْطَلَقَ ، فَحَمَلَه ، ثُمَّ جَاءَ إِلَى النبيِّ صلى اللَّهُ عليهِ وسلمَ عَلَى بَعِيرٍ ، فَحَدَّثَ النَّبِيَّ صلى اللَّهُ عليهِ وسلمَ الْحَدِيثَ ، فَقَالَ لَهُ النبيُّ صلى اللَّهُ عليهِ وسلمَ : انْطَلِقْ فَإِنَّ الدَّالَّ عَلَى الْخَيْرِكَفَاعِلِه .

877. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘ʿAlqamah ibn Marthad, who ascribed the hadith with a chain of transmission (*marfūʿ*) to the Messenger of Allah ﷺ, said, “A man came asking him to give him a mount as a conveyance [in the way of Allah] and the Messenger of Allah ﷺ said, ‘I don’t have anything on which to mount you, but I will point out one of the youth of the Anṣār for you. Go to him, and you will find him in the graveyard of Banī so-

and-so practising archery with some of his companions, because he has a camel on which he will mount you.’ The man went to the graveyard of Banī so-and-so and found him there practising archery with some of his companions. He said to him, ‘I went to the Messenger of Allah ﷺ asking him to give me a mount as a conveyance [in the way of Allah], but I didn’t find anything with him,’ and so he told the tale. He [the young man] said, ‘By Allah the One Whom there is no god but Him! Did the Messenger of Allah ﷺ mention[2181] this to you?’ He said that to him twice. Then he went and mounted him. He came back to the Prophet ﷺ on the camel and told the Prophet ﷺ the story. The Prophet ﷺ said to him, ‘Go, for the person who shows the way to a good action is the same as the one who does it.’”’”[2182]

◆

بَابُ الْوَلِيمَةِ

287. THE WEDDING FEAST

٨٧٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حَنِيفَةَ عن الْهَيْثَمِ قَالَ: لَمَّا تَزَوَّجَ النَّبِيُّ صلى اللّٰه عليه وسلم أُمَّ سَلَمَةَ رضِيَ اللّٰه عنها أَوْلَمَ عَلَيْهَا سَوِيقًا وَتَمْرًا ، وَقَالَ: إِنْ شِئْتِ سَبَّعْتُ لَكِ، وَسَبَّعْتُ لِصَوَاحِبَاتِكِ. قال مُحَمَّدٌ : يَعْنِي يُقِيمُ عِنْدَهَا سَبْعًا وَعِنْدَ صَوَاحِبَاتِهَا سَبْعًا .

878. Muḥammad said, “Abū Ḥanīfah informed us from al-Haytham who said, ‘When the Prophet ﷺ married Umm Salamah ؓ he gave a gruel of parched barley (*sawīq*) and dates as a marriage feast for her, and said, ‘I will spend seven [nights] with you and seven[2183] with your co-wives, if you wish.’” Muḥammad said, “Meaning that

he would stay with her for seven [nights] and with [each of] her co-wives for seven.”[2184]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رحمه الله تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ الزُّهْدِ

288. DOING WITHOUT (*ZUHD*)

٨٧٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة قَالَ : حَدَّثَنَا حَمَّادٌ عَنْ إِبْرَاهِيمَ قَالَ : مَا شَبِعَ آلُ مُحَمَّدٍ صلى اللَّهُ عليهِ وسلمَ ثَلَاثَةَ أَيَّامٍ مُتَتَابِعَةً من خُبْزِ الْبُرِّ حَتَّى فَارَقَ مُحَمَّدٌ صلى اللَّهُ عليهِ وسلمَ الدُّنْيَا ، وَمَا زَالَتِ الدُّنْيَا عَلَيْهِمْ عَسِرَةً كَدِرَةً حَتَّى قُبِضَ مُحَمَّدٌ صلى اللَّهُ عليهِ وسلمَ ، فَلَمَّا قُبِضَ أَقْبَلَتِ الدُّنْيَا عَلَيْهِمْ صَبّاً .

879. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ḥammād narrated to us that Ibrāhīm said, “The family of Muḥammad ﷺ did not eat their fill[2185] from wheaten bread on three consecutive days until Muḥammad ﷺ left the world. The world was continuously difficult and troublesome until Muḥammad ﷺ was taken. When he was taken, the world turned to them, pouring forth.”’”[2186]

◆

بَابُ الدَّعْوَةِ

289. INVITATIONS

٨٨٠ – مُحَمَّدٌ قَالَ: أَخْبَرَنَا أبو حنيفة قال: حَدَّثَنَا محمد بْنُ قَيْسٍ: إِنَّ أَبَا الْعَوْجَاءِ
الْعِشَارَ كَانَ صَدِيقًا لِمَسْرُوقٍ، فَكَانَ يَدْعُوهُ ، فَيَأْكُلُ من طَعَامِهِ وَيَشْرَبُ من شَرَابِهِ،
وَلَا يَسْأَلُه .

880. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Muḥammad ibn Qays narrated to us that Abū’l-ʿAwjāʾ al-ʿIshār was a friend of Masrūq and he [Abū’l-ʿAwjāʾ al-ʿIshār] would invite [Masrūq] and [Masrūq] would eat of his food and drink of his drink without asking him [about the source of the food or whether it was *ḥalāl* or *ḥarām*].’”[2187]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، ولا بَأْسَ بِذَلِكَ مَا لَمْ يَعْرِفْ خَبِيثًا بِعَيْنِهِ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ
رحمه الله تَعَالَى .

Muḥammad said, “We adhere to this. There is no harm in it as long as one does not know of a specific wrong.[2188] That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٨١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قال : إِذَا دَخَلْتَ عَلَى
الرَّجُلِ فَكُلْ مِن طَعَامِهِ، وَاشْرَبْ من شَرَابِهِ، وَلَا تَسْأَلْهُ عَنْهُ.

881. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Whenever you go to see a man, eat of his food and drink of his drink and do not ask about it.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ مَا لَمْ يَسْتَرِبْ شَيْئًا ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رحمه الله تَعَالَى .

Muḥammad said, “We adhere to this as long as one does not fall into doubt about it, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٨٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قال : كَانَ يُقَالُ : إِذَا دَخَلْتَ بَيْتَ امْرِئٍ مُسْلِمٍ فَكُلْ من طَعَامِه ، وَاشْرَبْ من شَرَابِه ، وَلَا تَسْأَلْ عَنْ شَيْءٍ .

882. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘It used to be said, “When you enter a Muslim man’s house, eat of his food and drink of his drink and do not ask[2189] about anything.”’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ مَا لَمْ يَسْتَرِبْ شَيْئًا ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رحمه الله تَعَالَى .

Muḥammad said, “We adhere to this as long as one does not fall into doubt about it, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٨٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حَنِيفَةَ عَنْ عَاصِمِ بْنِ كُلَيْبٍ عَنْ رَجُلٍ من أَصْحَابِ مُحَمَّدٍ صَلَّى اللَّهُ عليهِ وَسَلَّمَ قَالَ : صَنَعَ رَجُلٌ من أَصْحَابِ مُحَمَّدٍ صلى اللَّهُ عَلَيْهِ وَسَلَّمَ طَعَامًا فَدَعَاهُ ، فَقَامَ النَّبِيُّ صلى الله عليهِ وسلمَ وَقُمنا مَعَهُ ، فَلَمَّا وُضِعَ الطَّعَامُ تَنَاوَلَ وَتَنَاوَلْنَا مَعَهُ ، فَأَخَذَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بَضْعَةً ، فَلَاكَهَا فِي فِيهِ طَوِيلًا لا يَسْتَطِيعُ أَنْ يَأْكُلَهَا ، فَأَلْقَاهَا مِن فِيهِ ، وَأَمْسَكَ عَنِ الطَّعَامِ ، فَدَعَا النَّبِيُّ صلى الله عليه وسلم صَاحِبَ الطَّعَامِ ، فَقَالَ : أَخْبِرْنِي عَنْ لَحْمِكَ هَذَا من أَيْنَ هُوَ ؟ قَالَ : يَا رَسُولَ اللَّهِ شَاةٌ كَانَتْ لِصَاحِبٍ لَنَا ، فَلَمْ يَكُنْ عِنْدَنَا شَيْءٌ فَنَشْتَرِيَهَا مِنْهُ ، عَجِلْنَا بِهَا ، فَذَبَحْنَاهَا ، فَصَنَعْنَاهَا لَكَ حَتَّى يَجِيءَ صَاحِبُهَا فَنُعْطِيَهُ ثَمَنَهَا ، فَأَمَرَهُ النبيُ صلى الله عليه وسلم أَنْ يَرْفَعَ الطَّعَامَ ، وَأَنْ يُطْعِمَهُ الأُسَارَى .

883. Muḥammad said, “Abū Ḥanīfah informed us from ʿĀṣim ibn Kulayb that one of the men of the Companions of Muḥammad ﷺ said, ‘One of the men of the Companions of Muḥammad ﷺ made food and invited him, so the Prophet ﷺ stood and we stood up with

him. When the food was set, he ate some and we ate with him. The Prophet ﷺ took a morsel and chewed it in his mouth for a long time, unable to eat it. So he took it out of his mouth and withheld himself from the food. The Prophet ﷺ called for the owner of the food and said, “Tell me about this meat of yours; where is it from?” He said, “Messenger of Allah, it is a ewe which belonged to a friend of ours, but we did not have that with which to buy it from him. We hurried and slaughtered it and made it for you before its owner could come and we could give him its price.” The Prophet ﷺ told him to remove the food and feed the prisoners with it.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَلَوْ كَانَ اللَّحْمُ عَلَى حَالِهِ الْأَوَّلِ مَا أَمَرَ النَّبِيُّ صلى اللّٰه عليه وسلمَ أَنْ يُطْعِمَه الْأُسَارَى ، وَلٰكِنَّه رَآهُ قَدْ خَرَجَ عَنْ مِلْكِ الْأَوَّلِ ، وَكَرِهَ أَكْلَه لِأَنَّهُ لَمْ يَضْمَنْ قِيمَتَه لِصَاحِبِهِ الَّذِي أُخِذَتْ شَاتُه ، وَمَن ضَمِنَ شَيْئًا فَصَارَ لَهُ من وَجْهِ غَصْبٍ ، فَأَحَبُّ إِلَيْنَا أَنْ يَتَصَدَّقَ بِهِ وَلَا يَأْكُلَه ، وَكَذٰلِكَ رِبْحُه ، وَالْأُسَارَى عِنْدَنَا أَهْلُ السِّجْنِ الْمُحْتَاجُونَ ، وَهٰذَا كُلُّه قِيَاسُ قَوْلِ أَبِي حنيفةَ رحمه الله .

Muḥammad said, “We adhere to this. If the meat had been in its original state, the Prophet ﷺ would not have ordered him to feed the prisoners with it, but he saw that it had gone from the ownership of the original person. He abhored eating it because [the host] had not stood surety for its price to the ewe’s owner from whom it was taken. Whoever is responsible for something and it becomes his through wrongful expropriation, we prefer that he give it away as *ṣadaqah* and not eat it, and equally its profit. Prisoners in our view mean needy inhabitants of prisons. All of this is analogically derived from the verdict of Abū Ḥanīfah ؒ.”

◆

بَابُ جَوَائِزِ الْعُمَّالِ

290. THE HOSPITALITY OF GOVERNORS

٨٨٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة عَنْ إِبْرَاهِيمَ : أَنَّهُ خَرَجَ إِلَى زُهَيْرِ بْنِ عَبْدِ اللَّهِ
الأَزْدِيِّ – وَكَان عَامِلاً عَلَى حُلْوَان – فَطَلَبَ جَائِزَتَه هُوَ وَذَرٌّ الْهَمْدَانِيُّ ، فَأَجَازَهُمَا .

884. Muḥammad said, “Abū Ḥanīfah informed us that Ibrāhīm and Dharr al-Hamdānī went to Zuhayr ibn ʿAbdullāh al-Azdī, who was the governor of Ḥulwān, and asked him for the hospitality[2190] due them, and he gave them their hospitality.”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ مَا لَمْ يَعْرِفْ شَيْئًا حَرَامًا بِعَيْنِه ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رحمه
الله تَعَالَى .

Muḥammad said, “We adhere to this as long as he does not know of anything in itself *ḥarām*,[2191] and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٨٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا الْعَلاءُ بْنُ زُهَيْرٍ قال : رَأَيْتُ إِبْرَاهِيمَ النَّخَعِيَّ أَتَى وَالِدِي
وَهُوَ عَلَى حُلْوَانَ ، فَطَلَبَ جَائِزَتَه ، فَأَجَازَه.

885. Muḥammad said, “Al-ʿAlā’ ibn Zuhayr informed us, ‘I saw Ibrāhīm an-Nakhaʿī come to my father,[2192] while he was the governor of Ḥulwān, and ask him for his hospitality, and he gave it to him.’”

٨٨٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حَنِيفة عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قال: لا بَأْسَ بِجَوَائِزِ
الْعُمَّالِ ، قَالَ: قُلْتُ: فَإِذَا كَانَ الْعَاشِرُ أَوْ مِثْلُه؟ قَالَ: إِذَا كَانَ مَا يُعْطِيكَ لَمْ يَكُنْ شَيْئًا
غَصَبَه بِعَيْنِه مُسْلِمًا أَوْ مُعَاهِدًا فَاقْبَلْ .

886. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘There is no harm in the hospitality of governors.’ He [Ḥammād] said, ‘I asked, “If it is the tithe of the tenth or the like?” He said, “If what he gives you is not something he specifically expropriated from a Muslim or someone [of the People of the Book] under a treaty, accept it.”’”

◆

بَابُ الرِّفْقِ وَالْخُرْقِ

291. GENTLE CONDUCT AND MEANNESS

٨٨٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حَنِيفَةَ قال : حَدَّثَنَا أَيُّوبُ بْنُ عَائِذٍ عَنْ مُجَاهِدٍ يَرْفَعُه إِلَى النَّبِيِّ صلى اللَّهُ عليهِ وسلمَ قَالَ: لَوْ نَظَرَ النَّاسُ إِلَى خَلْقِ الرِّفْقِ لَمْ يَرَوْا مِمَّا خَلَقَ اللَّهُ مَخْلُوقًا أَحْسَنَ مِنْهُ، وَلَوْ نَظَرُوا إِلَى خَلْقِ الْخُرْقِ لَمْ يَرَوْا مِمَّا خَلَقَ اللَّهُ مَخْلُوقًا أَقْبَحَ مِنْهُ .

887. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ayyūb ibn ʿĀ’idh narrated to us from Mujāhid who ascribed it directly to the Prophet ﷺ as a *marfūʿ* hadith that he said, “If people were to look at the quality of gentleness, they would not see any more beautiful creation of Allah. If they were to look at evil disposition, they would not see any uglier creation of Allah.”’”

◆

بابُ الرُّقْيَةِ من الْعَيْنِ وَالاِكْتِوَاءِ

292. AMULETS AND INCANTATIONS[2193] USED AS PROTECTION AGAINST THE [EVIL] EYE, AND CAUTERISATION

٨٨٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حَنِيفَة قال : حَدَّثَنَا نَافِعٌ عَنِ ابنِ عُمَرَ رَضِي اللّٰهُ عنهما أَنَّهُ اكْتَوى وَأَخَذَ من لِحْيَتِه ، وَاسْتَرْقَى من الْحُمَة .

888. Muḥammad said, “Abū Ḥanīfah informed us saying, “Nāfiʿ informed us that Ibn ʿUmar ؓ utilised cauterisation,[2194] trimmed his beard[2195] and used amulets and incantations[2196] as treatments for fever.”””

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، ولا بأس بذلك ،وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رحمه الله تَعَالَى .

Muḥammad said, “We adhere to this, and there is no harm in it. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٨٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة قال : حَدَّثَنَا عبيدُ اللّٰهِ بْنُ أَبِي زِيَادٍ عَنْ أَبِي نَجِيح عَنْ عَبْدِ اللّٰهِ بْنِ عُمَرَ : أَنَّ أَسْمَاءَ بِنْتَ عُمَيْسٍ رَضِيَ اللّٰهُ عَنْهَا أَتَتِ النبيَّ صلى اللّٰهُ عليهِ وسلمَ وَلَهَا ابْنٌ من أَبِي بَكْرٍ رضي الله عنه وابْنٌ من جَعْفَرٍ رضي الله عنه فَقَالَتْ : يَا رَسُولَ اللّٰهِ ! انِّي أَتَخَوَّفُ عَلَى ابْنَيْ أَخِيكَ الْعَيْنَ ، أَفَأَرْقِيهِمَا ؟ قَالَ : نَعَمْ فَلَوْ كَانَ شَيْءٌ يَسْبِقُ الْقَدَرَ سَبَقَتِ الْعَيْنُ .

889. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘‘Ubaydullāh ibn Abī Ziyād narrated to us from Abū Najīḥ from ʿAbdullāh ibn ʿUmar that Asmā’ bint ʿUmays ؓ came to the Prophet ﷺ, and she had a son from Abū Bakr ؓ and a son from Jaʿfar ؓ and she said, “Messenger of Allah, I fear ‘the eye’ for your two nephews;[2197] should I use amulets and incantations to protect them?” He said, “Yes, for if anything could outstrip the Decree ‘the eye’ would outstrip it.”””[2198]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، إِذَا كَانَ من ذِكْرِ اللَّهِ أَوْ من كِتَابِ اللَّهِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رحمه الله تَعَالَى .

Muḥammad said, “We adhere to this if it consists of *dhikr* of Allah or is from the Book of Allah. That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بابُ نَفَقَةِ اللَّقِيطِ

293. MAINTENANCE OF A FOUNDLING

٨٩٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ : قَالَ : مَا أَنْفَقْتَ عَلَى اللَّقِيطِ تُرِيدُ بِهِ اللَّهَ فَلَيْسَ عَلَيْهِ شَيْءٌ ، وَمَا أَنْفَقْتَ عَلَيْهِ تُرِيدُ أَنْ يَكُونَ لَكَ عَلَيْهِ فَهُوَ لَكَ عَلَيْهِ .

890. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Whatever you spend on a foundling[2199] by which you intend Allah, he owes nothing of it to you. What you spend on him intending that he should owe it to you, he owes it to you.’”

قَالَ مُحَمَّدٌ : هذا كُلُّهُ تَطَوُّعٌ ، وَلَا تَرْجِعُ عَلَى اللَّقِيطِ بِشَيْءٍ وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رحمه الله تَعَالَى .

Muḥammad said, “This is all voluntary, and it is not referred back[2200] to the foundling in any way, and that is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

بَابُ جُعْلِ الآبِقِ

294. THE REWARD FOR A RUNAWAY SLAVE

٨٩١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة عَنْ سَعِيدِ بْنِ الْمَرْزُبَانِ عَنْ أَبِي عُمَرَ أَوْ ابْنِ عُمَرَ (شَكَّ مُحَمَّدٌ) عَنْ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ رضي الله عنهما : أَنَّهُ جعَلَ جُعْلَ الآبِقِ إِذَا أَصَابَه خَارِجًا من الْمِصْرِ أَرْبَعِينَ دِرْهَمًا .

891. Muḥammad said, “Abū Ḥanīfah informed us from Saʿīd ibn al-Marzubān from Abū ʿUmar or Ibn ʿUmar[2201] (Muḥammad was unsure) that ʿAbdullāh ibn Masʿūd ؓ made the reward for [capturing] a runaway slave forty dirhams when someone caught him outside the city.”[2202]

٨٩٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة قال :حَدَّثَنَا ابْنُ أَبِي رَبَاحٍ عَنْ أَبِيهِ عَنْ عَبْدِ اللَّهِ رَضِيَ اللَّهُ عَنْهُ مِثْلَ ذَلِكَ فِي جُعْلِ الآبِقِ أَيْضًا .

892. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Ibn Abī Ribāḥ also narrated to us from ʿAbdullāh [Ibn Masʿūd] ؓ the same as that concerning the reward for capturing a runaway slave.’”[2203]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ إذا كَانَ الْمَوْضِعُ الَّذِي أَصَابَه فِيهِ مَسِيرَةَ ثَلاثَة أَيَّام فَجُعْلُه أَرْبَعُونَ وَإِذَا كَانَ أَقَلَّ من ذَلِكَ رَضَخَ لَه عَلَى قَدْرِ السَّيْرِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رحمه الله تَعَالَى .

Muḥammad said, “We adhere to this when the place in which he captured him is three days journey away, in which case the reward is forty. If it is less than that, he is given a lesser reward according to the measure of his travel.[2204] That is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

بَابُ مَنْ أَصَابَ لُقْطَةً يُعَرِّفُهَا

295. SOMEONE WHO FINDS LOST PROPERTY WHICH HE MAKES KNOWN

٨٩٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة قال : أَخْبَرَنَا أَبُو إِسْحَاقَ عَنْ رَجُلٍ عَنْ عَلِيِّ بْنِ أَبِي طَالب رضي الله عنه قَالَ فِي اللُّقْطَةِ : يُعَرِّفُهَا حَوْلاً فَإِنْ جَاءَ صَاحِبُهَا وَإِلاَّ تَصَدَّقَ بِهَا ، أَوْ بَاعَهَا وَ تَصَدَّقَ بِثَمَنِهَا غَيْرَ أَنَّ صَاحِبَهَا بِالْخِيَارِ ، إِنْ شَاءَ ضَمَّنه ، وَإِنْ شَاءَ تَركه .

893. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Abū Isḥāq informed us from a man[2205] that ʿAlī ibn Abī Ṭālib ؓ said, “One makes a piece of lost property known[2206] for a year.[2207] Then if its owner comes [he has the right to it], but if not one should give it away as *ṣadaqah*, or sell it and give its price away as *ṣadaqah*, except that its owner has the choice: if he wishes he can make him liable for it, and if he wishes he can abandon it.”’”[2208]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رحمه الله تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٨٩٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ فِي اللُّقْطَةِ : يَتَصَدَّقُ بِهَا أَحَبُّ إِلَيَّ مِنْ أَكْلِهَا ، فَإِنْ كُنْتَ مُحْتَاجًا ، فَأَكَلْتَ فَلا بَأْسَ به .

894. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said concerning lost property, 'I prefer that one give it away as *ṣadaqah* rather than eating it, but if you are in need and eat it, there is no harm in it.'"

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رحمه الله تَعَالَى .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

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بَابُ الْوَشْمِ، وَالصِّلَةِ فِي الشَّعْرِ، وَأَخْذِ الشَّعْرِ من الْوَجْهِ ، وَالمحلِّلِ

296. TATTOOS,[2209] HAIRPIECES, REMOVING FACIAL HAIR, AND ONE WHO RENDERS *ḤALĀL*

٨٩٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قال : لُعِنَتِ الْوَاصِلَةُ وَالْمُسْتَوْصِلَةُ، وَالمحلِّلُ، وَالمحلَّلُ لَهُ ، وَالْوَاشِمَةُ، وَالْمُسْتَوْشِمَةُ.

895. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, 'A woman who lengthens her hair with a hairpiece and someone who does it for her, a man who makes a divorced woman *ḥalāl* for her original husband who divorced her and the man for whom that is done,[2210] and a female tattooist and the woman who asks her to tattoo her, all these are accursed.'"[2211]

قَالَ مُحَمَّدٌ : أَمَّا الْوَاصِلَةُ فَالَّتِي تَصِلُ شَعْرًا إِلَى شَعْرِهَا ، فَهذَا مَكْرُوهٌ عِنْدَنَا ، وَلَا بَأْسَ
بِهِ إِذَا كَانَ صُوفًا ، فَأَمَّا الْمُحَلِّلُ وَالْمُحَلَّلُ لَهُ فَالرَّجُلُ يُطَلِّقُ امْرَأَتَهُ ثَلَاثًا ، فَيَسْأَلُ رَجُلًا أَنْ
يَتَزَوَّجَهَا لِيُحَلِّلَهَا لَهُ ، فَهذَا لا يَنْبَغِي لِلسَّائِلِ وَلَا لِلْمَسْئُولِ أَنْ يَفْعَلَاهُ ، وَالْوَاشِمَةُ الَّتِي تَشِمُ
الْكَفَّيْنِ وَالْوَجْهَ . فَهذَا لا يَنْبَغِي أَنْ يُفْعَلَ .

Muḥammad said, “As for ‘a woman who lengthens her hair with a hair-piece’ that is the woman who ties hair to her own hair, and that is abhorent in our view, but there is no harm if it is done with wool.[2212] As for ‘a man who renders the divorced woman *ḥalāl* for her original husband who divorced her and the man for whom that is done,’ that is when a man divorces his wife three times and later asks another man to marry her [and then divorce her] in order to make her *ḥalāl* for him again. This is neither right for the man who asks for it or the man who is asked to do it. As for the tattooist it is a woman who tattoos the palms and the face, which ought not to be done.”

٨٩٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة قَالَ : حَدَّثَنَا الْهَيْثَمُ عَنْ أُمِّ ثَوْرٍ عَنِ ابْنِ عَبَّاسٍ
رضي الله عنهما قال : لا بَأْسَ بِالْوَصْلِ فِي الرَّأْسِ إِذَا كَانَ صُوفًا .

896. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Al-Haytham narrated to us from Umm Thawr that Ibn ʿAbbās said, “There is no harm in tying up the hair of the head if it is done with wool [and not with human hair].”’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رحمه الله تعالى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ حَفِّ الشَّعْرِ مِن الْوَجْهِ

297. PLUCKING OUT (*ḤAFF*) THE HAIR OF THE FACE

يُقَالُ حَفَّتِ الْمَرْأَةُ وَجْهَهَا ، أَيْ : أَخَذَتْ عَنْهُ الشَّعْرَ .

It is said that a woman *ḥaffat* her face i.e., she removed hair from it

٨٩٧ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ عن عَائِشَةَ أُمِّ الْمُؤمنِين رضي الله عنها : أَنَّ امْرَأَةً سَأَلَتْهَا : أَحُفُّ وَجْهِي ؟ فَقَالَتْ : أَمِيطِي عَنْكِ الأَذَى .

897. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm from ʿĀ'ishah the Mother of the Mu'minūn ﷺ that a woman asked her, 'Shall I pluck the hair on my face?' And she said, 'Remove harm[2213] from yourself.'"[2214]

٨٩٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة قال : حَدَّثَنَا زِيَادُ بْنُ عِلاقة عَنْ عَمْرِو بْنِ مَيْمُونٍ عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا أَنَّ امْرَأَةً سَأَلَتْهَا : أَحُفُّ وَجْهِي ؟ فَقَالَتْ : أَمِيطِي عَنْكِ الأَذَى .

898. Muḥammad said, "Abū Ḥanīfah informed us saying, 'Ziyād ibn ʿIlāqah narrated to us from ʿAmr ibn Maymūn from ʿĀ'ishah ﷺ that a woman asked her, 'Shall I pluck out the hair on my face?' And she said, 'Remove harm from yourself.'"

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رحمه الله تعالى .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

٨٩٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أنه كان يَكْرُهُ أن تُرْسَمَ الدَّابَّةُ فِي وَجْهِهَا ، أَوْ يُضْرَبَ الْوَجْهُ .

899. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that he used to abhor marking an animal on its face or striking it on the face.”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ .

Muḥammad said, “We adhere to this.”

٩٠٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة عن الْهَيْثَمِ عن ابْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا أنه
كَانَ يَقْبِضُ عَلَى لِحْيَتِهِ ثُمَّ يَقُصُّ مَا تَحْتَ الْقُبْضَةِ .

900. Muḥammad said, “Abū Ḥanīfah informed us from al-Haytham that Ibn ʿUmar used to grasp his beard with his hand and cut off what was below the grasp of his hand.”[2215]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رحمه الله تعالى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ الْخِضَابِ بِالْحِنَّاءِ وَالْوَسْمَةِ

298. DYEING WITH HENNA AND INDIGO

٩٠١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة قال : حَدَّثَنَا عُثْمَانُ بْنُ عَبْدِ اللَّهِ قَالَ : أَتَتْنَا
أُمُّ سَلَمَةَ زَوْجُ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بِمَشَاقَةٍ من شَعْرِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ
وَسَلَّمَ مَخْضُوبَةً بِالْحِنَّاءِ .

901. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘ʿUthmān ibn ʿAbdullāh narrated to us, “Umm Salamah, the wife of the Prophet ﷺ, brought us some combings[2216] of the hair of the Messenger of Allah ﷺ dyed with henna.”’”[2217]

٩٠٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة عَنْ حَمَّادٍ قال : سَأَلْتُ إِبْرَاهِيمَ عَنِ الْخِضَابِ بِالْوَسْمَةِ ، قَالَ : بَقْلَةٌ طَيِّبَةٌ ، وَلَمْ يَرَ بِذَلِكَ بَأْساً .

902. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād who said, ‘I asked Ibrāhīm about dyeing with indigo[2218] and he said, “A pleasant herb,” and saw no harm in that.’”[2219]

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رحمه الله تعالى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

٩٠٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة قال : حَدَّثَنَا أَبُو حُجَيَّةَ عَنِ ابْنِ بُرَيْدَةَ عَنْ أَبِي الْأَسْوَدِ الدُّؤَلِيِّ عَنْ أَبِي ذَرٍّ رَضِيَ اللَّهُ عَنْهُ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ : أَحْسَنُ مَا غَيَّرْتُمْ بِهِ الشَّعْرَ الْحِنَّاءُ وَالْكَتَمُ .

903. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Abū Ḥujayyah narrated to us from Ibn Buraydah[2220] from Abū’l-Aswad ad-Du’alī from Abū Dharr ؓ that the Prophet ﷺ said, “The best of things with which you can alter hair are henna and indigo.”’”[2221] [2222]

٩٠٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة قَالَ : حَدَّثَنَا مُحَمَّدُ بْنُ قَيْسٍ قَالَ : أُتِيَ بِرَأْسِ الْحُسَيْنِ بْنِ عَلِيٍّ رَضِيَ اللَّهُ عَنْهُمَا ، فَنَظَرْتُ إِلَى لِحْيَتِهِ وَرَأْسِهِ قَدْ نَصَلَتْ مِنَ الْوَسْمَةِ .

904. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Muḥammad ibn Qays narrated to us, “The head of al-Ḥusayn ibn

ʿAlī ﵁ was brought and I gazed at his beard and head which seemed to have been dyed[2223] with indigo.”’”[2224]

٩٠٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة عَنْ يَزِيدَ بْنِ عَبْدِ الرَّحْمن عَنْ أَنَسِ بْنِ مَالِكٍ رَضِيَ اللَّهُ عَنْهُ : كَأَنِّي أَنْظُرُ إِلَى لِحْيَةِ أَبِي قُحَافَةَ كَأَنَّهَا ضِرَامُ عَرْفَجٍ ، يَعْنِي من شِدَّةِ الْحُمْرَةِ ، وَاللَّهُ تَعَالَى أَعْلَمُ .

905. Muḥammad said, “Abū Ḥanīfah informed us from Yazīd ibn ʿAbd ar-Raḥmān from Anas ibn Mālik ﵁, ‘It is as if I were gazing at the beard of Abū Quḥāfah[2225] which was like a blaze[2226] of *ʿarfaj*,’[2227] meaning because of the intensity of its redness, and Allah knows best.”[2228]

◆

بَابُ شُرْبِ الدَّوَاءِ وَأَلْبَانِ الْبَقَرِ وَالْاِكْتِوَاءِ

299. DRINKING REMEDIES, COW’S MILK AND CAUTERISATION

٩٠٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة قال : حَدَّثَنَا قَيْسُ بْنُ مُسْلِمٍ عَنْ طَارِقِ بْنِ شِهَابٍ عَنْ عَبْدِ اللَّهِ بْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ أَنَّهُ قَالَ : إِنَّ اللَّهَ تَعَالَى لَمْ يَضَعْ دَاءً إِلَّا وَضَعَ لَهُ دَوَاءً إِلَّا السَّامَ ، وَالْهَرَمَ ، فَعَلَيْكُمْ بِأَلْبَانِ الْبَقَرِ فَإِنَّهَا تَخْلِطُ من كُلِّ الشَّجَرِ .

906. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Qays ibn Muslim narrated to us from Ṭāriq ibn Shihāb that ʿAbdullāh ibn Masʿūd ﵁ said, “Allah has not placed an illness without placing a remedy for it, except for death[2229] and senility,[2230] so you must use cow’s milk because it is blended from every shrub.”’”[2231]

٩٠٧ – مُحَمَّدٌ قَالَ: أَخْبَرَنَا أبو حنيفة قال : حَدَّثَنَا عَطَاءُ بْنُ أَبِي رَبَاح عَنْ أَبِي هُرَيْرَةَ
رَضِيَ اللَّهُ عَنْهُ قَالَ : قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ : إِذَا طَلَعَ النَّجْمُ رُفِعَتِ
الْعَاهَةُ عَنْ أَهْلِ كُلِّ بَلَدٍ .

907. Muḥammad said, "Abū Ḥanīfah informed us saying, ''Aṭā' ibn Abī Rabāḥ narrated to us that Abū Hurayrah ﵁ said, "The Messenger of Allah ﷺ said, 'When the Pleiades[2232] rise the pests of the people of every land are removed.'"'"[2233]

٩٠٨ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّ خَبَّابَ بْنَ الْأَرَتِّ
كَوَى عَبْدَ اللَّهِ ابْنَه من الْفَرْسَةِ .

908. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād from Ibrāhīm that Khabbāb ibn al-Aratt cauterised his son ʿAbdullāh because of an ulcer [in the neck]."

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رحمه الله تَعَالَى .

Muḥammad said, "We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him."

بَابُ تَقْيِيدِ الْعِلْمِ

300. RECORDING KNOWLEDGE

٩٠٩ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ أَنَّهُ كَانَ يَكْرَهُ الْكُتُبَ ،
ثُمَّ حَسَّنَهَا ، قَالَ حَمَّادٌ : وَرَأَيْتُ إِبْرَاهِيمَ يَكْتُبُهَا بَعْدَه .

909. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm used to abhor writing but later he regarded it as good.[2234] Ḥammād said, ‘And I saw Ibrāhīm writing down after that.’”

قَالَ مُحَمَّدٌ : وَبِهِ نَأْخُذُ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رحمه الله تَعَالَى .

Muḥammad said, “We adhere to this and it is the verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ الذِّمِّيِّ يُسَلِّمُ عَلَى الْمُسْلِمِ يَرُدُّ السَّلَامَ

301. A *DHIMMĪ*[2235] GREETING A MUSLIM WHO RETURNS THE GREETING

٩١٠ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفةَ قال : حَدَّثَنَا الْهَيْثَمُ عَنْ ابْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ أَنَّهُ صَحِبَ رَجُلاً من أَهْلِ الذِّمَّةِ ، فَلَمَّا أَرَادَ أَنْ يُفَارِقَه قال : السَّلامُ عَلَيْك ، قَالَ : وَعَلَيْكَ السَّلَامُ .

910. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘Al-Haytham narrated to us that Ibn Masʿūd ﷺ kept the company of a man from among the people of the *dhimmah*, and that when he intended to leave him, [the *dhimmī*] said, “*As-salāmu ʿalayka,*” and [ʿAbdullāh] said, “*Wa ʿalayka as-salām.*”’”[2236]

قَالَ مُحَمَّدٌ : نَكْره أَنْ يَبْدَأَ الْمُسْلِمُ الْمُشْرِكَ بِالسَّلام ، وَلَا بَأْسَ بِالرَّدِّ عَلَيْهِ ، وَهُوَ قَوْلُ أَبِي حَنِيفَةَ رحمه الله تَعَالَى .

Muḥammad said, “We abhor that a Muslim should initiate greeting[2237] a *mushrik* with the [*Sharīʿah*] greeting of peace, but there is no harm in returning his greeting.[2238] [2239] That is the

verdict of Abū Ḥanīfah, may Allah, exalted is He, have mercy on him.”

◆

بَابُ لَيْلَةِ الْقَدْرِ

302. *LAYLAT AL-QADR* – THE NIGHT OF THE DECREE

٩١١ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة قال : حَدَّثَنَا عَاصِمُ بْنُ أَبِي النَّجُودِ عَنْ زِرِّ بْنِ حُبَيْشٍ عَنْ أُبَيِّ بْنِ كَعْبٍ رَضِيَ اللَّهُ عنهُ قال : لَيْلَةُ الْقَدْرِ لَيْلَةُ سَبْعٍ وَعِشْرِينَ ، وَذلِكَ أَنَّ الشَّمْسَ تُصْبِحُ صَبِيحَةَ ذَلِكَ الْيَوْمِ لَيْسَ لَهَا شُعَاعٌ ، كَأَنَّهَا طَسْتٌ تَرَقْرَقُ .

911. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘ʿĀṣim ibn Abī’n-Najūd narrated to us from Zirr ibn Ḥubaysh that Ubayy ibn Kaʿb said, “Laylat al-Qadr is the night of the twenty-seventh,[2240] and that[2241] is because the sun rises on the morning of that day without rays as if it were a copper wash-basin rotating and coming and going.”’”[2242] [2243]

◆

بَابُ مَنْ عَمِلَ عَمَلاً أَسَرَّهُ أَلْبَسَهُ اللهُ رِدَاءَه ، وَارْحَمُوا الضَّعِيفَيْنِ : الْمَرْأَةَ وَالصَّبِيَّ

303. WHOEVER DOES AN ACTION WHICH HE CONCEALS, ALLAH WILL CLOTHE HIM IN ITS OUTER WRAP; AND SHOW MERCY TO THE TWO WEAK BEINGS: WOMEN AND CHILDREN

٩١٢ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قال : أَسِرُّوا مَا شِئْتُمْ ، وَأَعْلِنُوا مَا شِئْتُمْ ، مَا مِن عَبْدٍ يُسِرُّ شَيْئًا إِلاَّ أَلْبَسه الله تَعَالَى رِدَاءَه .

912. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘Conceal whatever you wish and make public whatever you wish. Any slave who conceals something, Allah, exalted is He, will clothe him in its outer wrap.’”[2244]

٩١٣ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة قال : حَدَّثَنَا شَيْخٌ لَنَا يَرْفَعُهُ إِلَى النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّم قَالَ : ارْحَمُوا الضَّعِيفَيْنِ الْمَرْأَةَ وَالصَّبِيَّ .

913. Muḥammad said, “Abū Ḥanīfah informed us saying, ‘A Shaykh of ours narrated to us, ascribing it directly to the Prophet ﷺ as a *marfūʿ* hadith, that he said, “Show mercy to the two weak beings: women and children.”’”

◆

بَابُ الإِمَارَةِ، وَمَنِ اسْتَنَّ سُنَّةً حَسَنَةً عَمِلَ بِهَا مَن بَعْدَه

304. AMIRATE, AND “WHOEVER ESTABLISHES A SUNNAH WHICH THOSE AFTER HIM ACTED UPON”

٩١٤ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قال : ثَلاثَةٌ يُؤْجَرُ فِيهِمُ الْمَيِّتُ بَعْدَ مَوْتِهِ : وَلَدٌ يَدْعُو لَهُ بَعْدَ مَوْتِه ، فَهُوَ يُؤْجَرُ فِي دُعَائِه ، وَرَجُلٌ عَلَّمَ عِلْمًا يَعْمَلُ بِهِ وَيُعَلِّمُهُ النَّاسَ ، فَهُوَ يُؤْجَرُ عَلَى مَا عَمِلَ بِهِ ، أَوْ عَلَّمَ ، وَرَجُلٌ تَرَكَ أَرْضَ صَدَقَةٍ .

914. Muḥammad said, “Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, ‘There are three things for which the dead are rewarded after their death: a son who supplicates for the deceased [father] after his death and [the father] is rewarded by his supplication, and a man who learnt knowledge which he acts upon

and which he teaches people, and he is rewarded for that which he acted upon or taught, and a man who left land as *ṣadaqah*.'"

٩١٥ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة عَنْ أَبِي غَسَّان عَن الْحَسَنِ الْبَصْرِيِّ عَنِ النَّبِيِّ
صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنَّهُ قَالَ : يَا أَبَا ذَرّ! إِنَّ الإِمَارَةَ أَمَانَةٌ ، وَهِيَ يَوْمَ الْقِيَامَةِ خِزْيٌ
وَنَدَامَةٌ ، إِلاَّ مَن أَخَذَهَا بِحَقِّهَا ثُمَّ أَدَّى الَّذِي عَلَيْهِ فِيهَا ، وَ أَنَّى لَهُ ذَلِكَ يَا أَبَا ذَرّ ؟

915. Muḥammad said, "Abū Ḥanīfah informed us from Abū Ghassān[2245] from al-Ḥasan al-Baṣrī that the Prophet said, 'Abū Dharr! amirate is a trust, but on the Day of Rising it will be a humiliation and a regret except for the one who takes charge of it according to its right and discharges the duty incumbent on him with respect to it, and how can he possibly do that,[2246] Abū Dharr?'"[2247]

٩١٦ – مُحَمَّدٌ قَالَ : أَخْبَرَنَا أبو حنيفة عَنْ حَمَّادٍ عَنْ إِبْرَاهِيمَ قَالَ: الْبَلاءُ مُوَكَّلٌ
بِالْكَلِمِ .

916. Muḥammad said, "Abū Ḥanīfah informed us from Ḥammād that Ibrāhīm said, 'Trial is entrusted with words.'"[2248] [2249]

[2164] Abū Yūsuf narrated it on p.212.

[2165] Abū Yūsuf narrated it on pp.212-3.

[2166] Abū Yūsuf narrated it on p.208.

[2167] The record of his actions.

[2168] Abū Yūsuf narrated it on p.215.

[2169] The man from Ṭā'if.

[2170] Ibn Umm ʿAbd is the *kunyah* of ʿAbdullāh ibn Masʿūd.

[2171] Saddling as it was done in Makkah and Ṭā'if, and the Messenger of Allah only loved the Madīnan mount because of his love of Madīnah's people.

[2172] It is a *marfūᶜ* hadith which Abū Hurayrah narrated and which at-Tirmidhī published under “complete goodness (*birr*) and joining [ties of kinship],” in the chapter on “that which has been narrated on backbiting.”

[2173] Swifter punishment in the world and in the next world.

[2174] *baghy* is a very inclusive term which originally means to exceed the bounds, particularly in the sense of doing an injustice to others, but here it would seem to have the more restricted sense of adultery. – Trans.

[2175] Wasteland on which there is nothing, meaning that the one who swears a false oath will become impoverished and what provision is in his house will depart.

[2176] He was Jāhimah ibn al-ᶜAbbās.

[2177] Abū Yūsuf narrated it on pp.199-200.

[2178] Meaning, [that he go on jihad] without his parents’ permission.

[2179] At-Tirmidhī narrated it under “judgements” in the chapter on “what has been narrated about the father taking from his child’s wealth,” and an-Nasā’ī in *al-Mujtabā’* under “sales” in the chapter on “urging earning,” and Ibn Mājah under “trading” in the chapter on “what a man has from his child’s wealth.”

[2180] *ghanī* primarily means “independent” and secondarily “wealthy.” – Trans.

[2181] In order to settle his heart, and out of joy.

[2182] In terms of reward.

[2183] Meaning, “I will treat you and them equally and appoint for each one of them seven [days and nights] just as I spent seven with you.”

[2184] Ibn Saᶜd narrated the second half of it by different routes; see what is in *aṭ-Ṭabaqāt al-kubrā*, vol.8, pp.92-4, and Muslim narrated it under “breast-feeding” in the chapter on “the respect which old age is due.”

[2185] This was by his choice ﷺ.

[2186] Al-Bukhārī narrated the like of it under “foods” in the chapter on “that which the Prophet ﷺ and his Companions used to eat,” and Muslim under “doing-without,” in both of which there is “two consecutive days.”

[2187] Because it is permissible to eat a Muslim’s food without going into such great detail.

[2188] He speaks of the caution shown by the *ᶜulamā’* in eating others’ food in case their income might have been earned unlawfully in a manner that involved injustice such as usury or the forceful expropriation of others’ property by an amir or the unwitting consumption of someone else’s property unlawfully, as well as eating impure foods. – Trans.

[2189] Because in that there is to make fun of a Muslim which is not permissible.

[2190] *jawā’iz*, the plural of *jā’izah* which is: *the kindness and courtesy shown to those who come to one as envoys or the like…* or *provisions for a day and a night given to a guest at his departure* (Lane’s *Arabic-English Lexicon*).

[2191] For example, the amir’s having taken people’s property wrongfully or put the *zakāh* to the wrong use, and giving hospitality from out of those wrongly used funds. – Trans.

[2192] Zuhayr ibn ʿAbdullāh al-Azdī.

[2193] *ruqyah* encompasses both incantations and charms written on amulets, although in this section it seems mostly to refer to the latter. – Trans.

[2194] Cauterisation is to use *kayy* on the body, which is to burn the skin with an iron for healing.

[2195] Above a fistful [see narration no. 900. – Trans.]

[2196] Using a charm or spell i.e., an amulet used to charm the person who is ill with a fever or epilepsy etc.

[2197] Meaning ʿAbdullāh ibn Jaʿfar and Muḥammad ibn Abū Bakr because after Jaʿfar she married Abū Bakr to whom she bore Muḥammad before he died while Muḥammad was still small because she gave birth to him during the Farewell Hajj. The permissibility of using charms and spells has been narrated in some hadith but in some others there is narrated its prohibition. The way that these can be reconciled is that using charms and spells in languages other than Arabic and with means other than the names of Allah and His attributes and His speech from His revealed books is deplored as is to believe that charms and spells are inevitably effective so that one relies on them. It is not disapproved to use anything else such as to seek refuge by means of the Qur’ān and the names of Allah, exalted is He, and those charms that are transmitted. It is for that reason that he ﷺ said to the man who charmed by means of the Qur’ān and took a wage for it, “You took [a wage] for a true charm.” [Note that Muḥammad ibn ʿAbd al-Wahhāb and his followers confused this matter by choosing only hadith on forbidden talismans. – Trans.]

[2198] At-Tirmidhī narrated it under “medicine” in the chapter on “what has been narrated about incantations and amulets for the eye”, and Ibn Mājah under “medicine” in the chapter on “someone who applies incantations and amulets against the eye.”

[2199] Lexically *laqīṭ* is whatever is picked up from the ground, and then later it has been used in the main for abandoned children because they are likely to be picked up accidentally.

[2200] Unless the *qāḍī* orders that in which case it is referred back to the foundling whenever that is easy.

[2201] Ibn ʿUmar is the *ṣaḥīḥ* position.

[2202] Abū Yūsuf narrated it on p.166.

[2203] Abū Yūsuf narrated it on p.166.

[2204] This is legal preference (*istiḥsān*) but analogical deduction gives the result that he gets nothing unless it has been stipulated, and that is the verdict of ash-Shāfiʿī, but our position is that the Companions agreed upon the obligatory nature of the basic reward except that some of them regarded forty as obligatory and some of them less than that. So in order to reconcile these, we regard forty as obligatory for going so far as to be a traveller and the lesser amount for going a lesser distance than would make one a traveller.

[2205] Whose name was ʿĀṣim ibn Ḍamrah as is narrated by al-Bayhaqī.

[2206] The way to make it known is to announce it at the place in which he found it and in the marketplaces, the streets and the mosques.

[2207] Making no distinction between a great deal or a little. Some say that if it is ten dirhams or more it must be made known for a year, but if less then just for a few days.

[2208] Abū Yūsuf narrated it on p.168.

[2209] To prick the skin with a needle and then fill up the pinpricks with kohl or indigo (*nīl*) so that the tracing becomes blue or green.

[2210] A woman who has been irrevocably divorced may not remarry her husband unless she has been married to another man, consummated the marriage [and again divorced].

[2211] Al-Bukhārī narrated the first portion from Ibn ʿUmar as a *marfūʿ* hadith under "clothing" in the chapter on "tying hair pieces," and Muslim under "clothing" in the chapter on "the prohibition of the woman who extends her hair with a hair-piece," and at-Tirmidhī has narrated the second portion from Ibn Masʿūd as a *marfūʿ* hadith under "marriage" in the chapter on "what has been narrated about the person who makes [a woman] *ḥalāl* [for her original husband, who had divorced her irrevocably, by his marrying her, consummating the marriage and then divorcing her], and an-Nasāʾī in *al-Mujtabā* under "divorce" in the chapter on "making a woman who had been divorced three times *ḥalāl* [for her original husband]," and ad-Dārimī under "marriage" in the chapter on "the prohibition of making [a woman] *ḥalāl* [for her former husband]."

[2212] Because what is *ḥarām* is to make use of some part of a human being not something else.

[2213] Meaning “repel it” in the sense that that is permissible for her. [*Adhā* can also mean what is an annoyance. – Trans.]

[2214] Abū Yūsuf narrated it on p.236.

[2215] Abū Yūsuf narrated it on p.234.

[2216] Hairs that had fallen from the hair and beard when being combed.

[2217] Abū Yūsuf narrated it on pp.232-3.

[2218] *wasimah* or *wasmah* is a plant or, some say, a tree in the Yemen with whose leaves the hair is dyed.

[2219] Abū Yūsuf narrated it on p.233.

[2220] ʿAbdullāh ibn Buraydah ibn al-Ḥaṣīb al-Aslamī.

[2221] *katam* some say is *wasmah* and others say that it is another plant. Hair is dyed with it and ink made for writing. What is meant by the hadith is either to dye with both henna and indigo together or with each of them individually. It would seem more likely that what is meant is to use indigo separately from henna because if henna is used along with indigo it produces black and the prohibition of black is *ṣaḥīḥ*, and so it is more probable that the hadith about henna or indigo is a choice. Nevertheless the differing hadith narrations that refer to henna and indigo are reckoned as referring to using henna one time so that the colour is red and using indigo sometimes so that the colour is green, but if they are used together the colour becomes red inclining to black, and thus what would be meant would be to use a mix of henna and indigo (*Mirqāt*).

[2222] Abū Dāwūd narrated it under “combing the hair” in the chapter on “dyeing,” and at-Tirmidhī under “clothing” in the chapter on “what has been narrated concerning dyeing,” and an-Nasā’ī in the book on “adornment” in the chapter on “dyeing with henna.”

[2223] *nuḍilat*: was overcome, means in the active sense of the verb “came out and became dominant”. [The text of the copies we have is *nuṣilat*. – Trans.]

[2224] Abū Yūsuf narrated it on p.263.

[2225] Ḥāfiẓ Riyāḍ Aḥmad al-Multānī has that Abū Quḥāfah was Abū Bakr aṣ-Ṣiddīq ﵁ which may be a misprint for “the father of” Abū Bakr aṣ-Ṣiddīq ﵁. However, Abū Yūsuf (see below) narrated the same text as being about Abū Bakr, so it may well be that the text of the *Āthār* of Muḥammad should have had “Ibn Abī Quḥāfah.” And Allah knows best.

[2226] *ḍirām* is the flame of the fire, which was used metaphorically because he used to dye it with henna.

[2227] ʿ*arfaj* is a tree or shrub which when burnt, blazes fiercely, swiftly and brightly for a short time.

[2228] Abū Yūsuf narrated it on p.233 in which there is Abū Bakr not Abū Quḥāfah.

[2229] *sām* is death.

[2230] Old age, and he regarded senility as a disease metaphorically since death follows it as it does diseases.

[2231] Abū Yūsuf narrated it as *marfūʿ* on p.235.

[2232] *najm* is originally each star in the sky, but it is more restrictedly used for the Pleiades which is what is meant in the hadith.

[2233] Abū Yūsuf narrated it on p.205.

[2234] At first the Prophet ﷺ prohibited writing for fear of the hadith resembling the Qur'ān and then later when the Qur'ān was firmly established in that it was memorised he permitted them to write hadith.

[2235] A *dhimmī* is a person of the People of the Book under the contract of the *dhimmah*, which grants them protection and freedom of worship and exemption from military service in return for payment of *jizyah*. – Trans.

[2236] The like of it is narrated of other Companions of the Prophet ﷺ; see the *Muṣannaf* of Ibn Abī Shaybah, vol.5, pp251-2.

[2237] Because initiating the greeting is to show honour and it is not permitted to show honour to them.

[2238] Meaning with the wording "*wa ʿalaykum*" (and upon you (plural)) as is narrated in the hadith.

[2239] By returning his greeting saying "*wa ʿalaykum*" (and upon you (singular)) as narrated in hadith.

[2240] Most probably.

[2241] Its sign.

[2242] Indicating the appearance of its motion upon rising, because it is seen to have an imagined motion because of its closeness to the horizon, contrary to when it rises and is high.

[2243] Muslim narrated in the book on "fasting" in the chapter on "the merit of Laylat al-Qadr."

[2244] The hadith has two possible senses: first, in the case where the outer robe refers to the action's outer robe: if someone does a good action in secret, Allah will robe him in that action's noble outer robe, but if someone does a wrong action in secret, Allah will robe him in that action's ignoble outer robe. This sense is that of the hadith transmitted by aṭ-Ṭabarānī in *al-Kabīr* (172): "Whenever a slave conceals a secret, Allah will publicly dress him in its robe which if it (the secret) is good then it will be good, but which if it (the secret) is evil, then it will be evil.” – Trans.

Second, if the outer robe is that of Allah, exalted is He, it means that if someone conceals his wrong action, Allah will keep him concealed, and if someone discreetly and secretly does good Allah will protect him from *riyā’* (showing-off) by enveloping him. – Ed. And Allah knows best.

[2245] Shaykh Qāsim ibn Qaṭlūbghā said, “I think he is al-Haytham.”

[2246] Asked as a question in the sense of deeming it very unlikely. An-Nawawī said in explanation, “This hadith is an important source with respecting to avoiding governmental posts especially for those who have some weakness and are unable to undertake the offices of that governmental post. As for the humiliation and regret, they are with respect to those who are unworthy and do not act justly in it. As for those who are worthy of it and act justly in it, they have a tremendous merit. Yet along with that, because of the great number of dangers in it, the Prophet ﷺ warned him against it.”

[2247] Muslim narrated it in the book on “amirate” in the chapter on “disapproval of the amirate.”

[2248] *kalim* is the plural of *kalimah* “word,” since the person who talks a great deal will make many mistakes. In this sense there is the saying, “Whoever is silent is saved.”

[2249] Abū Yūsuf narrated it on p.196 from Ibrāhīm from ʿĀ’ishah.

Appendices

Appendix I

CASES IN WHICH IMĀM MUḤAMMAD AND/OR IMĀM ABŪ ḤANĪFAH DIFFERED FROM IBRĀHĪM AN-NAKHAᶜĪ OR SOME OF THE COMPANIONS

I HAVE INDICATED in the introduction that Imām Muḥammad added the explanation of his *madhhab* and that of his shaykh Abū Ḥanīfah into his *Āthār* but without mentioning the *madhhab* of his shaykh Abū Yūsuf, neither negating it nor affirming it except in one chapter and in one place in which he mentions his verdict. He mentions the verdict of Zufar ibn al-Hudhayl in three places, and mentions the *madhhab* of ath-Thawrī and Ibn Abī Laylā in one place in two chapters. In all of the chapters of the book, first of all he narrates from Abū Ḥanīfah, whether it be a (*marfūᶜ*) hadith ascribed to the Prophet ﷺ or a (*mawqūf*) tradition which stops short at a Companion, a (*mursal*) hadith which a Follower ascribed directly to the Prophet ﷺ without mentioning the Companion from whom he heard it, or a tradition ascribed to one of the Companions or Followers without a connecting link to him. At the end of each chapter he mentions, “We adhere to this and it is the verdict of Abū Ḥanīfah,” or sometimes he says, “And Abū Ḥanīfah used to adhere to this but we do not, but rather we adhere to the verdict of so-and-so,” or “we adhere to the hadith of the Messenger of Allah ﷺ” or “the hadith of ᶜĀ’ishah” or something else.

From this it must be clear to you that Imām Abū Ḥanīfah and Imām Muḥammad, may Allah be merciful to both of them, did not tie themselves to the verdicts of Ibrāhīm [an-Nakhaᶜī] nor others of the Companions and Followers so rigidly and unswervingly that they could not turn to someone else, but on the contrary they contradicted him openly and would adhere to the verdicts of others to whom their *ijtihād* inclined.

For example, in the chapter on *wuḍū’* due to kissing, Ibrāhīm said, “If he kisses someone whom it is permissible for him to marry then he must do *wuḍū’* and it is of the same standing as other matters that break *wuḍū’* (*ḥadath*)[1]” but Muḥammad says, “This is the verdict of Ibrāhīm, but we do not adhere to it and we do not think that *wuḍū’* has to be done for kissing in any condition unless the person discharges pre-ejaculatory fluid (*madhy*)[2], in which case he must do *wuḍū’* because of the pre-ejaculatory fluid, and that is the verdict of Abū Ḥanīfah ؒ.”

Second, in the chapter on wiping the face after *wuḍū’* with a kerchief and trimming the moustache, it is narrated “…that Ibrāhīm said with respect to [a man] clipping his nails and trimming his hair, ‘Let him pass water over it.’” Muḥammad said, “I heard Abū Ḥanīfah say, ‘Sometimes I clip my nails and do not pour water over them until I pray.’” Muḥammad said, “This is the verdict to which we adhere and it is the verdict of al-Ḥasan al-Baṣrī.”

Third, in the chapter on the *ghusl* of a woman who is menstruating, “Ibrāhīm said, ‘She [the woman with chronic menstrual bleeding] must leave *Ẓuhr* until it is at the end of its time and then she must perform *ghusl* and pray *Ẓuhr* and then pray *ʿAṣr*. Then she waits until when it is time for *Maghrib* she must leave *Maghrib* until the end of its time, then take a *ghusl* and pray *Maghrib* and *ʿIshā’* [and must continue to do that] until she is delivered [from her affliction].’”

Muḥammad said, “We do not adhere to this. We used to adhere to the other hadith that she must perform *wuḍū’* for every time of a prayer and pray at the end of its time. According to us she only has to do one *ghusl* when the ordinary term of her menstruation finishes. That is the verdict of Abū Ḥanīfah.” Moreover, he proved that, by the hadith of Umm Ḥabībah ascribed to the Prophet ﷺ according to his *madhhab*, and then he said, “We adhere to this hadith.”

Fourth, in the chapter on a woman who was delivered of a baby or a pregnant woman who sees blood, “There is that Ibrāhīm said, ‘If a woman who is delivered of a baby does not have a specific time [in which she would ordinarily cease bleeding] then she waits for the days of her women [the ordinary times that other women in her time and locality experience].’”

Muḥammad said, “We do not adhere to this. The fact that she is delivered of a baby means that she should wait up to forty days at the most, and if [the bleeding] goes over that time, she should perform a *ghusl* and then perform *wuḍū’* for each prayer and pray. That is the verdict of Abū Ḥanīfah.”

Fifth, there is in the chapter on a *mu’adhdhin* who speaks during his *adhān* that he [Ibrāhīm] said, “I do not command him and I do not forbid him.”

Muḥammad said, “We think that he should not do it, but that if he does do it, it does not nullify his *adhān*. That is the verdict of Abū Ḥanīfah.”

Sixth, in the chapter on a man leading people in prayer, in which he narrated with its chain of transmission the tradition of Ibn Masʿūd ؓ in which there are three cases. Muḥammad said, “We do not take the verdict of Ibn Masʿūd ؓ in these three, but we say that if there are three [people], then their imam goes before them and the other two pray behind him. We also do not adhere to him in the matter of placing the hands together, i.e. that he would place the palms of his hands together between his knees in *rukūʿ*, but we think that a man should place his palms on his knees separating his fingers underneath his knees. As for prayer without *adhān* or *iqāmah*, that is valid, but it is better to call the *adhān* and the *iqāmah*. If the *iqāmah* for the prayer is called without the *adhān* then that is better than leaving out the *iqāmah* because the people may have already prayed in *jamāʿah*. That is the verdict of Abū Ḥanīfah.” Then he narrated with a chain of transmission from ʿUmar proving his verdict and that of Abū Ḥanīfah, and said, “This is the verdict to which we adhere and it is preferable to us than the practice of Ibn Masʿūd ؓ and that is the verdict of Abū Ḥanīfah.”

Seventh, in the chapter on prayer in an arch [*miḥrāb*] there is that Ibrāhīm would lead them in prayer and stand to the left of the arch or to its right. Muḥammad said, “We see no harm in him standing in front of the arch as long as he does not enter into it, if his standing is outside of it and his prostration is inside it, and that is the verdict of Abū Ḥanīfah.”

Eighth, in the chapter on the *witr* and what is recited in it there is that Ibrāhīm said, “If one wakes up in the morning without having done the *witr* then there is no *witr* [due].”

Muḥammad said, “We do not adhere to this. The *witr* is due in every case except at those times in which prayer is abhorred, when the sun is rising until it is high in the sky or at midday until it has declined and at the time when the sun is reddening until it sets. That is the verdict of Abū Ḥanīfah ؒ.” This also shows you that for Muḥammad the *witr* is incumbent (*wājib*) or nearly incumbent and higher than a Sunnah that is invariably done (*Sunnah mu’akkadah*), and thus he took the position that it must always be made up for if missed and drew attention to that.

Ninth, in the chapter on someone who hears the call to prayer [the *iqāmah*] while [praying an obligatory prayer alone] in the mosque, after mentioning the tradition of Ibrāhīm, Muḥammad said, “The verdict of ash-Shaʿbī (he added a *rakʿah* to what he prayed [in order to make it an even number of *rakʿahs*], then finished his prayer and joined the people in prayer) is preferable to us and it is the verdict of Abū Ḥanīfah.” (i.e. [preferable to us] than the verdict of Ibrāhīm contrary to the verdict of ash-Shaʿbī.)

Tenth, in the chapter concerning someone who misses a part of the prayer with the imam, he narrated that Ibrāhīm said, “If he enters the mosque and the people are bowing then let him bow [right away] without haste.”

Muḥammad said, “We do not adhere to this, but think that he should continue as he is until he reaches the row and then pray whatever he catches and make up whatever he misses.” He sought to prove his point by the (*marfūʿ*) hadith of Abū Bakrah ؓ which he narrated with its chain of transmission attributed to the Prophet ﷺ, and then he said, “We base ourselves upon this and we regard that as sufficient. It does not please us that he should do [as Ibrāhīm described]. That is the verdict of Abū Ḥanīfah.”

Eleventh, in that chapter there is that Ibrāhīm said concerning a man who comes to the mosque on the day of Jumuʿah and the imam has already come to sit at the end of his prayer, “Let him say the *takbīr* and join them in the prayer. Then let him say a *takbīr* and sit with them and say the prayer known as *tashahhud*. Then when the imam says the final *salām*, he should stand and perform two *rakʿahs*."

Muḥammad said, "This is the verdict of Abū Ḥanīfah, but we do not adhere to it. Whoever catches a single *rakʿah* of the Jumuʿah should add another *rakʿah* to it, but whoever catches them sitting must pray four *rakʿahs* [of *Ẓuhr*]. Traditions to that effect have been transmitted from more than one person." Then he narrated with its chain of transmission from Anas ibn Mālik, al-Ḥasan, Saʿīd ibn al-Musayyab, Fulās ibn ʿAmr, ʿAlqamah ibn Qays and al-Aswad ibn Yazīd proving the verdict to which he adhered.

Twelfth, in the chapter concerning a man experiencing wetness during the prayer, he narrated a tradition of Abū Hurayrah and contradicted it. Muḥammad said, "As for us, we think that he should continue with his prayer, and that he should not repeat it, nor should he strike his hands on the ground and wipe his face and hands unless he is certain that it came out of him after his having done *wuḍū'*. If he is certain of that, then let him repeat his *wuḍū'*."

Thirteenth, in the chapter concerning someone who greets people during the *khuṭbah* or during the prayer he narrated that Ibrāhīm said, "He should return the greeting and respond with the prayer for mercy upon the person who sneezes while the imam is delivering the *khuṭbah*."

Muḥammad said, "We do not adhere to this, but rather we adhere to the verdict of Saʿīd ibn al-Musayyab." Then he narrated with its chain of transmission from him that he said, "Tell him not to do that again." Muḥammad said, "We adhere to this. The *khuṭbah* has the same standing as the prayer."

Fourteenth, in that chapter Ibrāhīm said about a man who sits behind the imam for the measure of the *tashahhud* and then finishes the prayer before the imam says the *salām*, "It is not valid." ʿAṭā' said, "It is valid." Abū Ḥanīfah said, "My verdict is the same as that of ʿAṭā'."

Muḥammad said, “We also adhere to the verdict of ʿAṭā’.” Then he narrated with its chain of transmission from ʿUmar ؓ in support of what he said.

Fifteenth, in the chapter on women going out to the two *ʿĪds*, and on the sighting of the new moon, he narrated in the tradition of Umm ʿAṭiyyah that she said, “A concession was granted to women to go out for the two ʿĪds.”

He said, “It does not please us that they should go out for that except for old women past child-bearing, and that is the verdict of Abū Ḥanīfah.”

Sixteenth, in the chapter on the *takbīr* during the days of *at-Tashrīq* [the days after the Day of Sacrifice during the *ʿĪd* of Ḥajj] in which he narrated the tradition of ʿAlī ibn Abī Ṭālib ؓ and then said:

“We adhere to this, but Abū Ḥanīfah did not adhere to it, but rather he adhered to the verdict of Ibn Masʿūd that one says *takbīr* after the prayer of *Fajr* on the Day of ʿArafah until the prayer of *ʿAṣr* on the Day of Sacrifice, saying *takbīr* at *ʿAṣr* and then stopping.”

Seventeenth, in the chapter on prostrations in [Sūrah] Ṣād, he narrated that Ibrāhīm did not use to prostrate in Ṣād and that ʿAbdullāh ibn Masʿūd did not use to prostate during Ṣād.

Muḥammad said, “However, we think that there is a prostration to be done in it, and we adhere to the hadith narrated from the Messenger of Allah ﷺ.” Then he narrated it with its chain of transmission and said after it, “That is the verdict of Abū Ḥanīfah ؒ.”

Eighteenth, in the chapter on a woman leading women in prayer and how she should sit in which he narrated a tradition of ʿĀ’ishah ؓ concerning her acting as imam, and then said:

“It does not please us that a woman should act as imam. However, if she does do it, she should stand in the middle of the row along with the women as did ʿĀ’ishah, and that is the verdict of Abū Ḥanīfah.”

Nineteenth, in that chapter he narrated from Ibrāhīm concerning a woman sitting in the prayer, “She sits however she wishes.”

Muḥammad said, "It is preferable to us that she brings her legs together on one side and not set her feet erect."

Twentieth, in the chapter on the two types of eclipse, he narrated the well known hadith concerning that, and then said:

"As for reciting the Qur'ān aloud, it has not reached us that the Prophet ﷺ recited aloud in it, and it has reached us that ʿAlī ibn Abī Ṭālib recited aloud in it at Kūfa, but it is preferable to us that one does not recite aloud in it."

Twenty-first, in the chapter on washing [a deceased] woman and shrouding her, he narrated from Ibrāhīm concerning a woman who dies among men, "Her husband washes her..." Abū Ḥanīfah said, "It is not valid for a man to wash his wife."

Muḥammad said, "We adhere to the verdict of Abū Ḥanīfah. The husband does not have an *ʿiddah* period [of mourning after his wife's death] so how can he wash his wife when it is permissible for him to marry her sister?"

Twenty-second, in the chapter on recitation of Qur'ān in the public bath he [Abū Ḥanīfah] said, "I asked Ibrāhīm about recitation in the public baths and he said, 'It is not for that, my son.'"

Muḥammad said, "If you wish, then recite. It has reached us that aḍ-Ḍaḥḥāk ibn Mazāḥim recited in the public bath."

Twenty-third, in the chapter on *zakāh* on gold and silver, and the property of the orphan, he narrated concerning a man who lent another man one thousand dirhams that Ibrāhīm said, "Its *zakāh* is due from the one who uses them and benefits from them."

Muḥammad said, "We do not adhere to this. Their *zakāh* is due from their owner. If he takes possession of them, he pays the *zakāh* due on them for what has passed."

Twenty-fourth, in the chapter of *zakāh* on jewellery, "Abū Ḥanīfah said, 'The husband is not to be given any of the *zakāh*,' but as for us we see no harm in the husband being given some of the *zakāh*."

Twenty-fifth, in the chapter on *Zakāt al-Fiṭr*, "Abū Ḥanīfah said, 'Half a *ṣāʿ* of raisins will suffice one,' but our verdict is that only a *ṣāʿ* of raisins will suffice one."

Twenty-sixth, in the chapter on the *zakāh* of working animals, he said after the narration of tradition of Ibrāhīm, “Abū Ḥanīfah adhered to all of this, but our verdict is that there is no *zakāh* on horses. It has reached us that the Prophet ﷺ said, ‘I have erased for my community the *zakāh* of horses and slaves,’” and then he narrated it with its chain of transmission in the hadith of Abū Hurayrah.

Twenty-seventh, in the chapter on *zakāh* of crops he said, after narrating the tradition of Ibrāhīm, “Abū Ḥanīfah used to adhere to this, but our verdict is that there is no *zakāh* on vegetables.”

Twenty-eighth, in the chapter on the *zakāh* of cattle, Muḥammad said, “Abū Ḥanīfah used to adhere to all of this, but our verdict is that there is nothing due in any increase over forty until they reach sixty…”

Twenty-ninth, in the chapter on *ṭawāf* and recitation at the Kaʿbah, Muḥammad said, “We do not see any harm in this if they understand what they say, and that was the verdict of Abū Ḥanīfah رحمه الله.”

Thirtieth, in the chapter on prayer at ʿArafah, Muḥammad said, “Abū Ḥanīfah adhered to all of this, but our verdict is that one must pray them in one’s stopping place in the same way that one would pray them with the imam, joining them together with one *adhān* and two *iqāmahs*…”

Thirty-first, in the chapter on the man who makes love to his wife while he is in *iḥrām* in which he narrated the tradition that Ibn ʿUmar said, “If he makes love after he presses on from ʿArafāt then he must make a sacrifice and do what remains of his Ḥajj and must make the Ḥajj again the next year.”

Muḥammad said, “We do not adhere to this verdict, but the verdict [we adhere to] is that which Ibn ʿAbbās made about it.”

Thirty-second, in the chapter on a man who marries and who has some blemish or the woman does, in which he narrated the tradition of Ibrāhīm.

Then Muḥammad said, “That is the verdict of Abū Ḥanīfah, but our verdict is that if the woman has the blemish then the right verdict is that of Abū Ḥanīfah, and if the man has the blemish and the blemish is tolerable then the right verdict in our view is that of Abū Ḥanīfah, but if the blemish is intolerable then it is of the same degree as someone who is castrated or impotent; the wife is given the choice and if she wishes she can remain with him and if she wishes she can separate from him."

Thirty-third, in the chapter about someone who marries a woman during her *ʿiddah* period and then divorces her, in which he narrated the tradition of Ibrāhīm.

Then Muḥammad said, "We do not adhere to this, but we think that if he divorces her and someone else marries her in her *ʿiddah*..."

Thirty-fourth, in the chapter about someone who marries a woman who divorced her husband by compensating him or who was divorced by him, in which he narrated the tradition of Ibrāhīm.

Then Muḥammad said, "This is the verdict of Abū Ḥanīfah... but we do not adhere to this. Rather, if he divorces her before consummating the marriage with her then she is due a half of the dowry and he has no right to take her back and she must complete what remains of her *ʿiddah*, and that is the verdict of al-Ḥasan al-Baṣrī, ʿAṭā' ibn Abī Rabāḥ and the people of the Ḥijāz, and some of them narrate it of ash-Shaʿbī."

Thirty-fifth, in the chapter about someone who married while in the state of associating partners with Allah and then later accepted Islam, in which he narrated the tradition of Ibrāhīm.

Then he said, "This we adhere to and it is the verdict of Abū Ḥanīfah except in one respect, because Abū Ḥanīfah said, 'If the husband reneges from Islam, his wife is clearly separated from him but that is not a divorce,' but our verdict is that it is divorce and that is the verdict of Ibrāhīm."

Thirty-sixth, in the chapter about someone who marries and then one of the two commits adultery, in which he narrated the tradition of ʿAlī ﵁ and then took a verdict contrary to him:

"As for the verdict of Abū Ḥanīfah and that which people in general hold, then she is his wife in every case. If he wishes he may divorce her, and if he wishes he may retain her, and that is our verdict.”

Thirty-seventh, in the chapter on a female slave who is sold or given away as a gift while she has a husband, in which he narrated that Ibrāhīm [narrated that Ibn Masʿūd] said, “Her sale is her divorce.”

Muḥammad said, “We do not adhere to this, but we adhere to the hadith of the Messenger of Allah ﷺ when ʿĀ’ishah bought Barīrah...[3] and that is the verdict of Abū Ḥanīfah.”

Thirty-eighth, in the chapter about divorce and the *ʿiddah*, in which he narrated the tradition of Ibrāhīm.

Then Muḥammad said, “Abū Ḥanīfah used to adhere to this, but our verdict is that the divorce of the pregnant woman according to the Sunnah is a single divorce which he pronounces at the beginning of the lunar month or whenever he wishes...”

Thirty-ninth, in the chapter about someone who divorces his wife and his wife remarries and then later returns to him, in which he narrated the tradition of Ibn ʿAbbās.

Then Muḥammad said, “Abū Ḥanīfah used to adhere to this, but our verdict is that she returns to whatever remains of her divorce if anything of it remains, and that is the verdict of ʿUmar, ʿAlī ibn Abī Ṭālib, Muʿādh ibn Jabal, Ubayy ibn Kaʿb, ʿImrān ibn Ḥuṣayn and Abū Hurayrah.”

Fortieth, in the chapter about someone who divorces and then takes his wife back but she does not learn of it before she has remarried, in which he narrated the tradition of ʿUmar and that of ʿAlī ؓ.

Muḥammad said, “We adhere to the verdict of ʿAlī and it is more pleasing to me than the first (i.e. the verdict of ʿUmar), and it is the verdict of Abū Ḥanīfah.”

Forty-first, in the chapter on disapproved types of divorce in which he narrated the tradition of Ibrāhīm.

Muḥammad said, “We do not think that he should do this and deliberately lengthen her *ʿiddah*.”[4]

Forty-second, in the chapter on someone who says, “If I marry so-and-so then she is divorced,” in which he narrates the tradition that al-Aswad ibn Yazīd didn’t consider it to be anything serious nor did the people of Ḥijāz but Ibn Masʿūd ﵁ disagreed with him.

Then Muḥammad said, “We adhere to the verdict of ʿAbdullāh ibn Masʿūd, and we think that she should receive a dowry, and that is the verdict of Abū Ḥanīfah.”

Forty-third, in the chapter on someone who says to his wife, “You are forbidden (*ḥarām*) to me!” in which he narrated the tradition that Ibrāhīm said, “If he meant divorce then it is a single one and he possesses the right to take her back.”

Muḥammad said, “Abū Hanifah’s verdict was that if he intended a divorce it is what he intended: if he intended a single divorce then it is a single divorce without him having the right to take her back. If he intended a single divorce while retaining the right to take her back then it is a single divorce but he has no right to take her back. If he intends three divorces then it is three divorces and she is not permitted to him until she marries someone else [and consummates the marriage and then is subsequently divorced]. If he did not intend divorce then it is an oath, and he is a man who has sworn to abstain from intercourse from his wife. If he leaves her for four months without approaching her she becomes divorced without him having the right to take her back because of *īlā*[5] ... If he intended divorce but did not intend any particular number of divorces, then it is a single divorce without his having the right to take her back. If he intended two divorces then it is a single divorce but without him having the right to take her back...”

Forty-fourth, in the chapter on *khiyār*[6] and [saying] “Your affairs are in your own hands”, in which he narrated the tradition of Ibrāhīm but did not adhere to his verdict.

Muḥammad said, “As for our verdict, if he says to her, ‘Your affairs are in your own hands,’ then if she chooses herself [and her freedom from him], then it is according to what the husband intended...”

Forty-fifth, in this chapter in which he narrated the tradition of Zayd ibn Thābit and contrary to it the tradition of ʿAlī ibn Abī Ṭālib ؓ.

Muḥammad said, “We adhere to the verdict of ʿĀ’ishah which she narrated of the Prophet ﷺ and the verdict of ʿUmar and Ibn Masʿūd ؓ that if she chooses her husband then it is nothing [no divorce has taken place], but if she chooses her self then it is a single divorce and she has more right over herself. That is the verdict of Abū Ḥanīfah ؒ.”

Forty-sixth, in the chapter on *īlā*, in which he narrated the tradition of Ibrāhīm, “Ḥammād said, ‘So I asked Ibrāhīm about that, and he said, “I fear that it would be *īlā* and I hope that it would not be *īlā*.”’”

Muḥammad said, “I asked Abū Ḥanīfah about that, and he said, ‘It is *īlā*.’”

Forty-seventh, in the chapter on *īlā*, in which he narrated the tradition that Ibrāhīm said, “Divorce invalidates *īlā*.”

Muḥammad said, “We do not adhere to this.” Then he narrated the tradition of ash-Shaʿbī. Muḥammad said, “I said to Abū Ḥanīfah, ‘Which of the two verdicts do you adhere to?’ He said, ‘The verdict of ʿĀmir ash-Shaʿbī.’” Muḥammad said, “We adhere to it too.”

Forty-eighth, in the chapter on compensation paid for spilt blood, and what is due from people who possess silver and those who possess livestock, in which he narrated the tradition of ʿUmar ibn al-Khaṭṭāb ؓ in detail.

Then Muḥammad said, “We adhere to all of this. Abū Ḥanīfah used to accept of that camels, dirhams and dīnārs.”

Forty-ninth, the compensation for that of which a person only possesses a single example,[7] in which he narrated the tradition of Ibrāhīm and then said, “Abū Ḥanīfah used to adhere to all of this, and we adhere to it too except for in one respect: anything of quasi-deliberate intent.”

Then he detailed that and proved it by the hadith of the Messenger of Allah ﷺ and the reports which had reached him from ʿUmar, al-Mughīrah ibn Shuʿbah, Abū Mūsā al-Ashʿarī and Zayd ibn Thābit. He said, “We adhere to this.”

Fiftieth, that for which it is not possible to exact retaliation, in which he narrated the tradition of Ibrāhīm, “Killing has three aspects.”

Muḥammad said, “We adhere to all of this except for in one respect,” which he then detailed.

Fifty-first, in that chapter, he narrated the tradition of Ibrāhīm.

Then Muḥammad said, “Abū Ḥanīfah used to adhere to all of this, and we also adhere to it except in one respect, which is if he strikes him with something other than a weapon which stands in place of a weapon, for in this case there is retaliation according to the verdict of Abū Yūsuf and according to us.” In this chapter he mentioned the verdict of Abū Yūsuf, but he did not mention his *madhhab* in any of the other chapters of the book, as I have said at the beginning.

Fifty-second, in the chapter on compensatory payment for killing a woman or wounding her, in which he narrated the tradition of ʿAlī ﵁ and that Ibrāhīm said, “The verdict of ʿAlī ibn Abī Ṭālib is preferable to us than that of ʿAbdullāh ibn Masʿūd, Zayd ibn Thābit and Shurayḥ concerning injuries sustained by women and men.”

Then Muḥammad said, “We adhere to the verdict of ʿAlī and Ibrāhīm, because ʿAlī ibn Abī Ṭālib said, ‘The injuries are regarded as being a half those sustained by men.’”

Fifty-third, in the chapter on injuries sustained by slaves, in which he narrated the tradition of Ibrāhīm that the teeth of the slave are worth a twentieth of his value…

Then Muḥammad said, “Abū Ḥanīfah used to adhere to this, but our verdict is that all of that is according to how much the value of the slave has been decreased.”

Fifty-fourth, in this chapter in which he narrated from Ibrāhīm and then said, “Abū Ḥanīfah used to adhere to all of this and we too adhere to it except in one respect…”

Fifty-fifth, in the chapter on a woman’s reneging on Islam, in which he narrated the tradition that Ibrāhīm said, “A woman who reneges on Islam is killed.”

Muḥammad said, “We do not adhere to this.”

Fifty-sixth, in the chapter on someone who is killed and then one of his heirs pardons [the killer], in which he narrated from ʿUmar that he should be killed and from ʿAbdullāh ibn Masʿūd that he should not, and he adhered to the verdict of Ibn Masʿūd and left the verdict of ʿUmar.

Fifty-seventh, in the chapter on someone who killed his slave or a relative, in which he narrated the tradition of ʿUmar ﵁ that ʿUmar ordered that he be killed, but Muʿādh ibn Jabal said, “There is to be no retaliation between father and son, but there must be compensatory payment from his property.”

Muḥammad said, “We adhere to it. Whoever kills his son is not killed [in retaliation] for it.”

Fifty-eighth, in this chapter, in which he narrates the tradition of Ibrāhīm, but then says, “We do not adhere to this. There is no retaliation between the slave and his master…”

Fifty-ninth, in the chapter on a sworn allegation [of a husband against his wife] of adultery and a man’s disavowal of his son, in which he narrated that Ibrāhīm said, “If his father who has disavowed him slanders him or someone else from the people, all of them, or slanders his mother, then he is to be flogged.” Abū Ḥanīfah said, “He is not to be flogged for slander of the mother…” and Muḥammad took the same verdict.

Sixtieth, in this chapter, in which he narrated from Ibrāhīm concerning a man who avows that his son is his and then later disavows him, “He must swear to his allegation of adultery against her, and the son must stay with his mother…”

Then Muḥammad said, “All of this is the verdict of Abū Ḥanīfah and our verdict except in one respect: if he avows his son and then later disavows him and she is his wife, then he swears to his allegation of adultery against her and the son stays with him. If he avows one time, he does not have the right to disavow him, as ʿUmar said ؓ."[8]

Sixty-first, Ibrāhīm said, "Someone who drinks wine is beaten the same way as someone who slanders by making unsubstantiated accusations of sexual misconduct is beaten [with his clothes on]..."

Muḥammad said, "This is all the verdict of Abū Ḥanīfah except in one respect: he would strip the wine-drinker as he stripped someone who fornicated."

Sixty-second, in the chapter on someone who makes unsubstantiated accusations of sexual misconduct against everyone..., in which he narrated from Ibrāhīm concerning a slave woman of whom a third or two-thirds have been freed and then later she is set to work to purchase the remainder of her freedom and he slanders her by making unsubstantiated accusations of sexual misconduct, "He is not liable for anything [in terms of flogging for making unsubstantiated accusations of sexual misconduct] as long as she is working to earn her freedom."

Muḥammad said, "This was the verdict of Abū Ḥanīfah, but as for our verdict it is that she is free and whoever slanders her by making unsubstantiated accusations of sexual misconduct must take the punishment. And Allah knows best."

Sixty-third, in the chapter on combined *ḥadd* punishments among which is [one that requires] capital punishment, in which he narrated that Ibrāhīm said, "If punishments for breaking the limits are combined together and among them is [one which requires] capital punishment, then the punishments for the limits are averted by the capital punishment ..."

He said, "All of this is the verdict of Abū Ḥanīfah [and our verdict] except for the *ḥadd* punishment for unsubstatiated allegations of sexual misconduct since it is one of people's rights, so that he is flogged for the *ḥadd* punishment for unsubstatiated allegations of sexual misconduct and then he is killed [for a *ḥadd* punishment which is one of the rights of Allah requiring capital punishment]. The only punishments which are averted are those which are for Allah, exalted is He."

Sixty-fourth, the chapter on a virgin male fornicating with a virgin female, in which he narrated the tradition of Ibn Masʿūd that they are exiled from the land and the tradition of ʿAlī ibn Abī Ṭālib that, “Exiling them would cause *fitnah*.”

Then he said, “We adhere to the verdict of ʿAlī ibn Abī Ṭālib.”

Sixty-fifth, in the chapter on a female slave who committed adultery, about which he narrated the tradition of ʿAbdullāh ibn Masʿūd.

Then he said, “All of this is the verdict of Abū Ḥanīfah and our verdict, except in one respect: only the sultan executes the *ḥadd* punishment…”

Sixty-sixth, in the chapter on the punishment for brigandage or theft, in which he narrated that Ibrāhīm said, “The [hand of the] thief is amputated and he stands surety [for what he stole].”

Muḥammad said, “We do not adhere to this. If [the hand of] the thief is amputated, then making him stand surety for what he has stolen is invalid except in the case where what he stole is itself found in his possession, in which case it is returned to its owner. That is the verdict of ʿĀmir ash-Shaʿbī and of Abū Ḥanīfah.”

Sixty-seventh, in this chapter in which he narrated the tradition of Abu’d-Dardā’ and Abū Masʿūd al-Anṣārī [in which they said to someone accused of theft, “Did you steal?”], “Say, ‘No!’” So he said, “No.” And he said, “Let him go.”

Muḥammad said, “As for us, we say that the ruler or judge ought not to say to him, ‘Did you steal?’ but should remain silent until he affirms [that he stole] or repudiates it. That is the verdict of Abū Ḥanīfah,” and then he made clear the reason for considering another view weightier than theirs and added a case in place of Abū Ḥanīfah’s.

Sixty-eighth, in the chapter on the *ḥadd* punishment given to grave-robbers, he narrated that Ibrāhīm said, “[His hand] is amputated,” but Abū Ḥanīfah said, “[His hand] is not amputated because they were goods which were not clearly set aside and protected, but rather he is beaten painfully and imprisoned until he reforms.”

Muḥammad said, “It has reached us that Ibn ʿAbbās gave the judgement to Marwān ibn al-Ḥakam that he should not amputate [the hand of the grave-robber], and that is our verdict.”

Sixty-ninth, in the chapter on the testimony of someone who has been given a *ḥadd* punishment, in which he narrated the tradition that ash-Shaʿbī said, “I regard the testimony of the person who has slandered to be valid if he has turned in repentance.”

Muḥammad said, “We do not adhere to this,” and then he later detailed his verdict.

Seventieth, in the chapter on false testimony in which he narrated the tradition of Shurayḥ.

Muḥammad said, “Abū Ḥanīfah used to adhere to this and he did not think that he should be beaten. As for our verdict, we think that along with that he should be given a discretionary beating which should not amount to forty strokes.”[9]

Seventy-first, in the chapter on the testimony of women in which he narrated that Ibrāhīm said, “The testimony of women along with men is valid in everything except *ḥadd* punishments.”

Muḥammad said, “We say, ‘...in everything except *ḥadd* punishments and retaliation,’ and that is the verdict of Abū Ḥanīfah.”

Seventy-second, in this chapter, there is that Ibrāhīm used to regard the testimony of a woman valid concerning whether a child had been born alive or stillborn.

Muḥammad said, “We adhere to this if she is a Muslim woman and a valid witness, but Abū Ḥanīfah used to say, ‘She is not an acceptable witness as to whether a child is born alive or stillborn, but there have to be one male witness and two female witnesses.”

Seventy-third, in the chapter on the testimony of children in which he narrated the tradition of Shurayḥ at some length.

Then Muḥammad said, “We adhere to all of this except in two respects: first, the testimony of children in our view is invalid whether they all agree or disagree...; second, compensations for wounds in women are a half of the values for compensations for wounds in men in respect to teeth [being broken or knocked out], and wounds to the head or face which lay bare the bone, etc., and that is the verdict of Abū Ḥanīfah.”

Seventy-fourth, in the chapter on men making bequests or leaving in their wills that slaves should be freed, in which he narrated the tradition of Ibrāhīm.

Then Muḥammad said, “We do not adhere to this, but rather the two recipients of the bequest share out a third, and neither of them has more right than the other to the third, and that is the verdict of Abū Ḥanīfah.”

Seventy-fifth, in this chapter in which he narrated the tradition concerning a man who sets a third of his slave free upon his own death and then makes other bequests.

Muḥammad said, “That is the verdict of Abū Ḥanīfah, but our verdict is that if he sets a third of him free then all of him is free, and one begins with that from the third of the deceased’s property [which he can bequeath] before bequests. Then if anything remains, it is assigned proportionately to those who have been assigned bequests.”

Seventy-sixth, in this chapter in which he narrated from Ibrāhīm concerning someone who buys his son at his death for a thousand dirhams.

Muḥammad said, “All of this is the verdict of Abū Ḥanīfah, but our verdict is that he inherits in all of that and his price is a debt which he owes.”

Seventy-seventh, in the chapter on the slave who belongs to two men, but one of the two frees his portion of him, in which he narrated from al-Aswad.

Then Muḥammad said, “That is the verdict of Abū Ḥanīfah, but our verdict is that when one of them frees him, the slave becomes completely free, and the others have no way to set him free after that…”

Seventy-eighth, in this chapter[10], in which he narrated from Ibrāhīm concerning a slave who is jointly owned by two people.

Then Muḥammad said, “This is the verdict of Abū Ḥanīfah, but our verdict is that when a part of him is freed, whether it be much or little, then he becomes totally free, and he does not have to work for it at all. And Allah, glorious [and exalted] is He, knows best."

Seventy-ninth, in the chapter on writing a contract with a slave by which he can purchase his freedom, in which he narrated the tradition of ʿAbdullāh ibn Masʿūd and that of Zayd ibn Thābit.

Then Muḥammad said, "The verdict of Zayd ؓ is preferable to me and to Abū Ḥanīfah than the verdicts of ʿAlī and ʿAbdullāh ibn Masʿūd. Abū Ḥanīfah said, 'And [it is] also the verdict of ʿĀ'ishah ؓ in that which reached us,' and to it we adhere."

Eightieth, in the chapter concerning a man who dies and leaves his wife, and the two of them differ concerning the household goods, in which he narrated the verdict of Ibrāhīm in detail. Then he said, "Abū Ḥanīfah used to adhere to all of this."

Muḥammad said, "We do not adhere to this." Then he explained it in detail, mentioning during it the verdict of Ibn Abī Laylā, the verdict of Zufar, and the verdict of Ibrāhīm, and mentioning the differences of the *fuqahā'*.

Eighty-first, in the chapter concerning the inheritance of a couple divorced by *liʿān*[11] in which he narrated the tradition of Ibrāhīm. Then Muḥammad said, "We adhere to his verdict concerning when his mother and her child inherit from him and his verdict concerning when his mother in particular inherits from him, but everything apart from that we do not adhere to. On the contrary we adhere to the verdict that ..."

Eighty-second, in this chapter, in which he narrated the tradition of Ibrāhīm.

Then he said, "We do not adhere to this, but rather she has a third and the mother has a sixth. Whatever remains yields three portions according to the measure of their inheritances. This is deduced analogically from the statement of ʿAbdullāh ibn Masʿūd, and because he would not give a yield to brothers from one mother along with the mother, and ʿAlī would give a yield to them according to their inheritances, and so it is the verdict of ʿAlī ibn Abī Ṭālib ؓ to which we adhere."

Eighty-third, in this chapter, Ibrāhīm said, “The mother is [in the position of] the male relatives [who receive the inheritance when there are no family to inherit the fixed shares or when there is inheritance left over after the fixed shares] for those who have no male relatives...”

He said, “As for in our verdict, it is that when he leaves his mother and leaves no others to inherit...”

Eighty-fourth, in the chapter on expiation of oaths in which he narrated the tradition of Ibrāhīm.

Muḥammad said, “We adhere to all of this except in one respect: if the slave who has made a contract to begin purchasing his freedom has not yet discharged ...”

Eighty-fifth, in the chapter on vowing an act of disobedience, in which he narrated from ash-Shaʿbī, “Whoever swears an oath to perform an act of disobedience, must retract it and he does not owe expiation.”

Muḥammad said, “We do not adhere to this, but we adhere to the first hadith concerning that.”

Eighty-sixth, in the chapter on someone who commits himself to walking [on Hajj], in which he narrated that Ibrāhīm said, “He must return and walk what he performed mounted.”

Muḥammad said, “We do not adhere to this, but on the contrary we adhere to the verdict of ʿAlī ibn Abī Ṭālib, ‘When he mounts he must sacrifice a *hady* for it.’”

Eighty-seventh, in the chapter on someone who commits himself to sacrificing his son or himself,[12] in which he narrated from Ibrāhīm that he has to pay a hundred camels[13] which he must slaughter.

Muḥammad said, “We do not adhere to this, but we adhere to the verdict of Ibn ʿAbbās and Masrūq ibn al-Ajdaʿ,” and then he related it.

Eighty-ninth, in the chapter on trade and preconditions on buying, in which he narrated the *marfūʿ* hadith [ascribed directly to the Prophet ﷺ] of ʿAttāb ibn Usayd.

Then Muḥammad said, “We adhere to all of this, and similarly he ought not to sell something which he has bought until he has taken possession of it. All of this is the verdict of Abū Ḥanīfah except in one respect: property such as houses and land, about which he said, ‘There is no harm in the person who has bought them selling them before he has taken possession of them because they cannot move from their place.’” Muḥammad said, “According to us this is not acceptable, and they are just like other things [and have the same judgement].”

Ninetieth, in the chapter on someone who buys goods and finds a defect in them or [finds that a slave woman is] pregnant, in which he narrated the tradition of Ibrāhīm.

Muḥammad said, “We do not adhere to this, but we say that if she gives birth to him in less than six months [from the date of purchase] and both [the seller and the purchaser] lay claim to [the baby], then he is the child of the seller, and the sale of him and his mother is invalidated. However, if she gives birth to him with the purchaser after more than six months from when the sale took place, then he is the purchaser’s.”

Ninety-first, in this chapter in which he narrated the tradition of Ibrāhīm.

Then Muḥammad said, “We do not adhere to this, but on the contrary, if they all claim him, we have to examine how long after his ownership [of her] she gave birth.”

Ninety-second, in the chapter on separating a female slave and her husband and child, in which he narrated the tradition of Ibn Masʿūd رضي الله عنه concerning a slave woman who is sold while having a husband that, “Her sale is her divorce.”

Muḥammad said, “We do not adhere to this; she is his wife even if she is sold.” He said, “That has reached us from ʿUmar ibn al-Khaṭṭāb, ʿAlī ibn Abī Ṭālib, ʿAbd ar-Raḥmān ibn ʿAwf, and Ḥudhayfah ibn al-Yamān.”

Ninety-third, concerning the sale of game in reed thickets, fish and bamboo in which he narrated the tradition about ʿUmar ibn ᶜAbd al-ᶜAzīz that, "ᶜUmar wrote to him, that it is all one species and there is no harm in it."

Muḥammad said, "We do not adhere to this. We permit the sale of bamboo trees if someone is selling them in particular, but as for game we do not permit its sale."

Ninety-fourth, in the chapter on selling gold and silver set in something of good appearance (*sibr*), and jewels, in which he narrated the tradition of Ibrāhīm.

Then he said, "We do not adhere to this and we do not permit the sale until it is known that the price is more than that of the silver in the ring and that the extra price is for the gem, and that is the verdict of Abū Ḥanīfah."

Ninety-fifth, in the chapter on a loan in which he narrated the tradition of Ibrāhīm concerning a man who lent another man silver, and then he came back with extra, and he (Ibrāhīm) said, "In silver for silver, I dislike any increase; he should bring the same amount."

Muḥammad said, "We do not adhere to this. There is no harm in it as long as it has not been stipulated that he do so..."

Ninety-sixth, in the chapter on property and the right of pre-emption in which he narrated from Ibrāhīm.

Then he said, "We do not adhere to this. Pre-emption is the right of the nearest neighbours, and that is the verdict of Abū Ḥanīfah."

Ninety-seventh, in the chapter on crop sharing[14] with a third or a quarter [share of the crop] in which he narrated the tradition that Ṭāwus and Sālim ibn ᶜAbdullāh said, "There is no harm in it." [Ḥammād said], "I mentioned that to Ibrāhīm and he disapproved of it."

Muḥammad said, "Abū Ḥanīfah used to adhere to the verdict of Ibrāhīm, but we adhere to the verdict of Sālim and Ṭāwus; we see no harm in it."

Ninety-eighth, in the chapter on the sacrifice of the *ᶜĪd al-Aḍḥā* and castration of stallions in which he narrated the tradition of Ibrāhīm.

Then he said, "We do not adhere to this. It is not acceptable if it is blind in one eye, or is so emaciated that it is not good, or is so lame that it cannot walk, and that is the verdict of Abū Ḥanīfah."

Ninety-ninth, in the chapter on the sacrifice of a foetus and the *ʿaqīqah*, in which he narrated that Ibrāhīm said, "The sacrifice of one being cannot be the sacrifice of two beings."

Muḥammad said, "We do not adhere to this. The sacrifice of the foetus is the sacrifice of its mother if its formation is complete. But Abū Ḥanīfah adhered to this verdict of Ibrāhīm."

Hundredth, in the chapter on what is disapproved of the flesh of predators and the milk of donkeys in which he narrated the tradition that Ibn ʿAbbās disapproved of horseflesh.

Muḥammad said, "This is the verdict of Abū Ḥanīfah, but we do not adhere to it and we see no harm in horseflesh and many traditions are narrated showing that it is *ḥalāl*."

The hundred and first, in the chapter on what is caught by hunting dogs in which he narrated that Ibrāhīm said concerning someone who sends out his dog to hunt but forgetting to mention the name of Allah and then he took it and it was killed (or perhaps the dog took the prey and killed it), "I disapprove of his eating it."

Muḥammad said, "We do not adhere to this. There is no harm in eating it if he left out mentioning the name of Allah out of forgetfulness."

The hundred and second, in the chapter on cooked *nabīdh*[15] and fruit juices in which he narrated that Anas ibn Mālik used to drink a thick expressed juice which had been cooked until a half of it had gone.

Muḥammad said, "We do not adhere to this. One ought not to drink it until two-thirds of it have gone and one third remains, and that is the verdict of Abū Ḥanīfah."

The hundred and third, in the chapter on wearing gold and iron rings in which he narrated the tradition that Ibrāhīm's ring was made of iron.

Muḥammad said, "It does not please us for men to wear a ring of gold or iron or any jewellery other than silver."

The hundred and fourth, in the chapter on the spoils of battle and booty in which he narrated the tradition of ʿUmar.

Then Muḥammad said, “This is the verdict of Abū Ḥanīfah but we do not adhere to it. On the contrary we think that the horseman has three portions, one portion for himself and two portions because of his horse.”

This is what I have chosen from the book, being one hundred and four cases in which Muḥammad and Abū Ḥanīfah adhered to verdicts contrary to those of Ibrāhīm, ash-Shaʿbī, Shurayḥ, ʿUmar, Ibn Masʿūd, ʿAlī ibn Abī Ṭālib, Ibn ʿUmar, Ibn ʿAbbās, Abū Hurayrah and others of the Companions and the major figures of the Followers .[16] I mention them for the person with insight and in refutation of those who say that he never departed from the verdicts adopted by Ibrāhīm an-Nakhaʿī and Ibn Masʿūd .

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[1] Urinating, defecating, breaking wind, etc. – Trans.

[2] A sticky clear fluid which a man secretes upon sexual arousal.– Trans.

[3] “...ʿĀ’ishah bought her and set her free. Then the Messenger of Allah ﷺ gave her the choice between staying with her husband or choosing her freedom.” The reason she was given the choice was not because she had been purchased but because she had been set free. – Trans.

[4] This is not an example of Muḥammad disagreeing with Ibrāhīm. He fully endorses his stance here. – Trans.

[5] *īlā* is the name for the divorce that occurs when a man vows to refrain from intercourse with his wife and does so for four months. – Trans.

[6] *khiyār* (choice) is the case where the man offers his wife the choice as to whether she wants to stay with him or leave. – Trans.

[7] Such as the tongue. – Trans.

[8] I cannot find this example in my copy of the book. – Trans.

[9] Discretionary beatings – *taʿzīr* – should never equal or exceed *ḥadd* punishments. – trans.

[10] In our text it is in the chapter on someone who frees half of his slave.

[11] When a husband swears four oaths accusing his wife of adultery laying a curse upon himself if he is a liar, and she exonerates herself by swearing four oaths that he is lying and laying a curse upon herself if she is lying. – Trans.

[12] Sacrificing one’s son or oneself is forbidden, and one is obligated to break the oath and expiate it. – Trans.

[13] Among people for whom camels are wealth, a hundred camels are paid in compensation for manslaughter, in the case where the family of the deceased accept compensation. – Trans.

[14] We distinguish crop sharing from sharecropping, which was a practice in which tenant farmers paid a fixed amount of a crop as rent, no matter the size of the harvest, often resulting in their ruin in cases where the harvest did not reach anticipated amounts. – Trans.

[15] *Nabīdh* is a beverage made of soaked dates and raisins. It may or may not indicate something left to ferment. – Trans.

[16] And also in which Imām Muḥammad differed from his own shaykh Imām Abū Ḥanīfah, may Allah have mercy on them both. – Trans.

Appendix II

HIS NARRATIONS FROM SHAYKHS OTHER THAN IMĀM ABŪ ḤANĪFAH

THERE IS ANOTHER reason for the ascription of the book to Imām Muḥammad, which is that in the book he narrates from others of his shaykhs as well as from Abū Ḥanīfah in different chapters of the book in order to support the *madhhab* of Imām Abū Ḥanīfah or supporting the verdict he himself makes.

For example in the chapter on the *ghusl* performed by a woman with chronic menstrual bleeding and the menstruating woman, Muḥammad said, "Ayyūb ibn ʿUtbah, the Qāḍī of al-Yamāmah, informed us from Yaḥyā ibn Abī Kathīr..."

Second, in the chapter on those who pray the obligatory prayer in which he said, "Mālik ibn Anas informed me from Nāfiʿ..."

Third, in the chapter on prayer seated, Muḥammad said, "Ar-Rabīʿ ibn Ṣabīḥ informed us from Maʿshar ibn Ibrāhīm..."

Fourth, in the chapter on someone who goes ahead [of the imam] in anything of his prayer, "Muḥammad from al-Mubārak ibn Faḍālah from al-Ḥasan al-Baṣrī..."

Fifth, in this chapter, "Muḥammad said, 'Saʿīd ibn Abī ʿArūbah informed us from Qatādah...'"

Sixth, in the chapter on what interrupts the prayer, "Muḥammad said, 'Ibrāhīm ibn Yazīd al-Makkī informed us from ʿAmr ibn Dīnār...'"

Seventh, in this chapter, "Muḥammad from ʿAbdullāh ibn al-Mubārak from Yaʿqūb ibn al-Qaʿqāʿ...'"

Eighth, in this chapter, "Muḥammad said, 'ʿAbdullāh ibn al-Mubārak informed us from ʿAbdullāh ibn ʿAwn...'"

Ninth, ʿAbd al-Malik ibn ʿUmayr in the chapter on what should be repeated of the prayer and what of it is disapproved, "Muḥammad said, 'ʿAbd al-Malik ibn ʿUmayr narrated to us from Qazaʿah...'" but in my view [part of] the correct [*isnād*] is omitted.

The correct version will come later in the chapter, “Muḥammad said, ‘Abū Ḥanīfah said, “ʿAbd al-Malik ibn ʿUmayr narrated to us from Abū Ghāziyah…”’”, “Muḥammad said, ‘Abū Ḥanīfah informed us saying, “ʿAbd al-Malik ibn ʿUmayr narrated to us from Qazaʿah…”’” from two points of view: first, that ʿAbd al-Malik was the shaykh of Imām Abū Ḥanīfah as is seen in other chapters of the book, for the second that it is narrated from him in *Jāmiʿ al-masānīd* as, “Abū Ḥanīfah from ʿAbd al-Malik ibn ʿUmayr…” on the basis that Imām Muḥammad only says in narration from his shaykhs, “So-and-so informed us,” or he narrates using “from” as you have already seen, but here he says, “He narrated to us” and that is the way that Abū Ḥanīfah says it in all of the chapters in narrating from his shaykhs, when he says, “Ḥammād narrated to us” or using the expression “from Ḥammād” for example, as you will realise in the following section. So pay attention: the sound chain of transmission is the one in *Jāmiʿ al-masānīd*.

Tenth, in the chapter on forgetfulness in the prayer, “Muḥammad said, ‘Mālik ibn Mighwal informed us from ʿAṭā’ ibn Abī Rabāḥ.’”

Eleventh, in the chapter on someone who greets people during the *khuṭbah* or during the prayer, “Muḥammad said, ‘Sufyān ibn ʿUyaynah informed us from ʿAbdullāh ibn Saʿīd ibn Abī Hind.’”

Twelfth, Saʿīd ibn ʿUbayd aṭ-Ṭā’ī in the chapter on prayer while travelling, “Muḥammad said, ‘Saʿīd ibn ʿUbayd aṭ-Ṭā’ī informed us from ʿAlī ibn Rabīʿah al-Wālibī.’”

Thirteenth, in the chapter on greeting people during the *khuṭbah* or the prayer, “Muḥammad said, ‘Shuʿbah ibn al-Ḥajjāj informed us from ʿAlī Abu’n-Naḍr’” as is in *Kitāb al-kunā* by ad-Dūlābī and in *al-Lisān*.

Fourteenth, ʿUmar ibn Dharr al-Hamdānī in the chapter on prostration in [Sūrah] Ṣād, “Muḥammad said, ‘ʿUmar ibn Dharr al-Hamdānī informed us from his father from Saʿīd ibn Jubayr.’”

Fifteenth, Sufyān ath-Thawrī in the chapter on prayer over the dead, “Muḥammad said, ‘And Sufyān ath-Thawrī informed us from Abū Hāshim.’”

Sixteenth, Shuʿbah ibn al-Ḥajjāj again in the chapter on the Qur'ān recited in the public bath and [by someone who is] in need of a *ghusl*, "Muḥammad said, 'Shuʿbah ibn al-Ḥajjāj informed us from ʿAmr ibn Murrah al-Jamalī from ʿAbdullāh ibn Salamah.'"

Seventeenth, Sufyān ath-Thawrī again in the chapter on *Zakāt al-Fiṭr* and on slaves, "Muḥammad said, 'Sufyān ath-Thawrī informed us from ʿUthmān ibn al-Aswad al-Makkī."

Eighteenth, Khaytham ibn ʿIrāk in the chapter on the *zakāh* on working animals, "Muḥammad said, 'Khaytham ibn ʿIrāk ibn Mālik informed us, 'I heard my father...'"

Nineteenth, Saʿīd ibn Abī ʿArūbah again, from Abī Maʿshar in the chapter on a man who married a woman in the period after her divorce before it became final, "Muḥammad said, 'Saʿīd ibn Abī ʿArūbah informed us.'"

Twentieth, in the chapter on a man who marries a woman who is a slave, "Muḥammad said, 'Ibrāhīm ibn Yazīd al-Makkī'" again "'informed us saying, "I heard ʿAṭā' ibn Abī Rabāḥ."'"

Twenty-first, in the chapter on discretionary punishments, "Muḥammad said, 'Misʿar ibn Kidām informed us saying, 'Al-Walīd ibn ʿUthmān informed me.'"

Twenty-second, in the chapter on whoever has sexual intercourse with someone he wrongly understood to be permissible to him, "Muḥammad said, 'Sufyān ath-Thawrī informed us from al-Mughīrah aḍ-Ḍabbī.'"

Twenty-third, in the chapter on crop sharing for a third or a quarter, there is al-Awzāʿī, "Muḥammad said, 'ʿAbd ar-Raḥmān al-Awzāʿī informed us from Wāṣil ibn Abī Jamīl.'"

Twenty-fourth, on what sheep are disapproved and blood and other things, "Muḥammad said, 'ʿAbd ar-Raḥmān al-Awzāʿī informed us from Wāṣil ibn Abī Jamīl'" but in *Jāmiʿ al-masānīd* it is "'Abū Ḥanīfah from al-Awzāʿī'" and even if al-Awzāʿī was Muḥammad's shaykh without intermediary as is well known to those who study narrators, yet here there is some doubt because Imām Muḥammad's custom in all of the book's chapters is that he narrates in the first part of the chapter at its beginning from Abū

Ḥanīfah and from no one else, but here after the heading of the chapter he narrates from al-Awzāʿī contrary to his ordinary usage. So the weightiest verdict in my view is that of *Jāmiʿ al-masānīd*. Reflect on it, "*it may well be that after that Allah will cause a new situation to develop*." (Sūrat aṭ-Ṭalāq: 1) Twenty-fifth, in the chapter on drinking from gold and silver vessels, there is Abū Farwah who is ʿUrwah ibn al-Ḥārith al-Hamdānī, "Muḥammad said, 'Abū Farwah narrated to us from ʿAbd ar-Raḥmān ibn Abī Laylā'" about which I have some doubts since Muḥammad only says in narrating from his shaykhs, "he informed us," or "from so-and-so", but here he says, "he narrated to us," contrary to his usual custom, and the likeliest thing in my view is that it is thus, "Muḥammad said, 'Abū Ḥanīfah informed us, "Abū Farwah narrated to us from ʿAbd ar-Raḥmān"'" so that the beginning of the chain of transmission is missing from the *Āthār*. Reflect on it.

Twenty-sixth, in the chapter on payments to workers, "Muḥammad said, 'Al-ʿAlā' ibn Zuhayr informed us saying, "I saw Ibrāhīm an-Nakhaʿī."'"

So these are twenty-six places in which Imām Muḥammad narrates from someone other than Abū Ḥanīfah: Ayyūb ibn ʿUtbah the Qāḍī, Imām Mālik, Sufyān ibn ʿUyaynah, Sufyān ath-Thawrī, Shuʿbah ibn al-Ḥajjāj, Ibrāhīm ibn Yazīd al-Makkī, Saʿīd ibn Abī ʿArūbah, Saʿīd ibn ʿUbayd aṭ-Ṭā'ī, Misʿar ibn Kidām, Khaytham ibn ʿIrāk, Mālik ibn Mighwal, al-ʿAlā' ibn Zuhayr, ʿAbdullāh ibn al-Mubārak, Mubārak ibn al-Faḍālah, Abū Farwah and ʿAbd al-Malik ibn ʿUmayr about both of whom I have some doubts, ʿUmar ibn Dharr al-Hamdānī, ʿAbd ar-Raḥmān ibn ʿAmr al-Awzāʿī, and ar-Rabīʿ ibn Ṣabīḥ who are in total nineteen narrators from whom he transmitted in different chapters of the book, and for which reason *Kitāb al-āthār* is ascribed to him.

The other reason is that in it he mentions his own *madhhab* and the *madhhab* of Abū Ḥanīfah and in some chapters the *madhhab* of ath-Thawrī, Zufar, al-Ḥasan al-Baṣrī, an-Nakhaʿī, ʿAṭā', Ibn Abī Laylā, and in one place he mentions the verdict of Abū Yūsuf also. Because of these additions *Kitāb al-āthār* is also ascribed to him, but otherwise in its original it is the composition of Abū Ḥanīfah as you have learnt in the preceding, and Allah knows best.

Appendix III

IMĀM ABŪ HANIFAH’S SHAYKHS QUOTED IN AL-ĀTHĀR

Abū Ḥanīfah had many shaykhs, so much so that their number amounts to four thousand, but I will only mention in this section those of his shaykhs other than Ḥammād ibn Sulaymān from whom he narrated in *Kitāb al-āthār* following the structure of the chapters without considering their alphabetical order In the chapter on *wuḍū’*, he said, “Abū Sufyān narrated to us from Abū Naḍrah.”

In the chapter on wiping over leather socks he said, “Abū Bakr ibn ʿAbdullāh ibn Abī Juhaym narrated to us from ʿAbdullāh ibn ʿUmar.”

In the chapter on *wuḍū’* because of cooked food, he said, “ʿAmr ibn Murrah (al-Jamalī Abū ʿAbdullāh) narrated to us from Saʿīd ibn Jubayr.”

In this chapter he said, “ʿAbd ar-Raḥmān ibn Zāzān narrated to us from Abū Saʿīd al-Khudrī.”

Also in this chapter he said, “Shaybah ibn Musāwir narrated to us saying, ‘I was with ʿAdī ibn Arṭāh,”

Also in this chapter he said, “Yaḥyā ibn ʿAbdullāh narrated to us from Abū Mājid an-Nakhaʿī.”

In the chapter on that which nothing defiles, he said, “Al-Haytham ibn Abi’l-Haytham narrated to us from Ibn ʿAbbās.” In the book there is Ibrāhīm ibn Abi’l-Haytham but that is a mistake, so be aware of that.

In the chapter on the urine of animals and others, he said, “A man from the people of Baṣra narrated to us from al-Ḥasan al-Baṣrī.”

In the chapter on the tooth stick, he said, “Abū ʿAlī narrated to us from Tamām.”

In the chapter on *ghusl* because of sexual intercourse or the emission of semen, he said, “Abū Isḥāq as-Sabīʿī narrated to us from al-Aswad ibn Yazīd.”

In this chapter, "ʿAwn ibn ʿAbdullāh narrated to us from ash-Shaʿbī."

In the chapter on the call to prayer, he said, "Ṭalḥah ibn Muṣarrif narrated to us from Ibrāhīm."

In the chapter on taking a *ghusl* on the day of Jumuʿah and on the two *ʿĪds*, "Abān narrated to us from Abū Naḍrah from Jābir ibn ʿAbdullāh ؓ."

In the chapter on opening the prayer, Abū Ḥanīfah said, "ʿUthmān ibn ʿAbdullāh ibn Mawhab narrated to us from Abū Hurayrah."

In the chapter on *tashahhud,* he said, "Bilāl narrated to us from Wahb ibn Kaysān."

In the chapter on reciting '*In the name of Allah the All-Merciful the Most Merciful*' aloud, "Abū Sufyān narrated to us from Yazīd ibn ʿAbdullāh." In the book it is from ʿAbdullāh ibn Yazīd, but that is a mistake.

In the chapter on [reciting] the Qur'ān behind an imam, "Abu'l-Ḥasan Mūsā ibn Abī ʿĀ'ishah narrated to us from ʿAbdullāh ibn Shaddād ibn al-Hād."

In the chapter on someone praying the obligatory prayer, "Al-Haytham ibn Abi'l-Haytham," ascribing it [to the Prophet ﷺ] as a *marfūʿ*.

In the chapter on optional prayers, "Abū Sufyān narrated to us from al-Ḥasan al-Baṣrī."

In this same chapter, "Abū Jaʿfar narrated to us," ascribing it [to the Prophet ﷺ] as a *marfūʿ*.

In this same chapter, "Abū Ḥanīfah from Ḥuṣayn ibn ʿAbd ar-Raḥmān from ʿAbdullāh ibn ʿUmar."

In the chapter on the superiority of prayer in *jamāʿah* and the two *rakʿahs* of *Fajr*, "Al-Ḥārith ibn Ziyād or Muḥārib ibn Dithār (he is Muḥārib [ibn] Dithār without any doubt about the chain of transmission as is in the *Āthār* of Abū Yūsuf)," the doubt being from Muḥammad.

In this same chapter, "ʿAlqamah ibn Marthad narrated to us from ʿAlī," who was ʿAlī ibn al-Aqmar ibn ʿAmr ibn al-Ḥārith al-Hamdānī

Abu’l-Wāziʿ al-Wādiʿ the Kūfan who is one of the narrators of the six [well known works on hadith] as is in *at-Tahdhīb*.

In the chapter on the prayer seated, “Zubayd al-Yāmī narrated to us from Dharr al-Hamdānī.”

In the chapter on nosebleeds during prayer and on breaking wind, “ʿAbd al-Malik ibn ʿUmayr narrated to us from Maʿbad ibn Ṣabīḥ.”

In the chapter on what is permissible in prayer and what is disapproved, “ʿAlī ibn al-Aqmar narrated to us,” ascribing it [directly to the Prophet ﷺ] as a *marfūʿ* and he was previously seen referred to cryptically without his lineage [simply as ʿAlī].

In this same chapter “ʿAbd al-Malik ibn ʿUmayr narrated to us from Abū Ghāziyah,” and he is Qazaʿah whose *kunyah* was Abū Ghāziyah, one person not two as is claimed in the *Musnad* of Imām Muḥammad in which is the correct [narration] in my view, “Muḥammad said, ‘Abū Ḥanīfah informed us saying, “ʿAbd al-Malik ibn ʿUmayr narrated to us from Qazaʿah from Abū Saʿīd al-Khudrī.”’” So be aware of that, and the detailed investigation of that will come in its appropriate place, inshā’Allāh, exalted is He.

In this same chapter, “ʿĀṣim ibn Abi’n-Najūd narrated to us from Abū Razīn.”

In the chapter on bursting out laughing during the prayer, “Manṣūr ibn Zādhān narrated to us from al-Ḥasan al-Baṣrī.”

In the chapter on sleeping before the prayer and breaking *wuḍū’* because of it, “Ismāʿīl ibn ʿAbd al-Malik narrated to us from Mujāhid.”

In the chapter on lightening the prayer, “Maymūn ibn Sayyāh narrated to me from al-Ḥasan al-Baṣrī.”

In the chapter on prayer while travelling, he said, “Mūsā ibn Muslim narrated to us from Mujāhid,” but in the book it is, “Abū Ḥanīfah from Ḥammād who said, ‘Mūsā ibn Muslim narrated to us,” and that is not correct, for he narrates from the Imām from Mūsā without the intermediary narration of Ḥammād.

In the chapter on the prayer of fear, “Al-Ḥārith ibn ʿAbd ar-Raḥmān narrated to us from ʿAbdullāh ibn ʿAbbās.”

In the chapter on someone who fears hypocrisy, “Jawāb at-Taymī narrated to us from Abū Mūsā al-Ashʿarī.”

In the chapter on the prayer on the Day of Jumuʿah and on the *khuṭbah*, “Ghaylān narrated to us,” who is Ibn Jāmiʿ ibn Ashʿath al-Muḥāribī Abū ʿAbdullāh the Kūfan, “from Ayyūb ibn ʿĀ’idh aṭ-Ṭā’ī from Muḥammad ibn Kaʿb al-Quraẓī.” [incorrectly written al-Qarfalī]

In the chapter on women going out on the two *ʿĪds* and on the sighting of the new moon, “Abū Ḥanīfah from ʿAbd al-Karīm ibn Abi’l-Mukhāriq from Umm ʿAṭiyyah.”

In the chapter on the *qunūt* supplication in the prayer, he said, “Ṣult ibn Bahrām narrated to us from Abu’sh-Shaʿthā’.”

In the chapter on carrying the bier, “Manṣūr ibn al-Muʿtamir narrated to us from Sālim ibn al-Jaʿd.”

In the chapter on prayer over the deceased, “Al-Haytham narrated to us from Abū Yaḥyā ʿUmayr ibn Saʿīd an-Nakhaʿī.”

In this same chapter, “Saʿīd ibn al-Marzubān narrated to us from ʿAbdullāh ibn Abī Awfā.”

In the chapter on prayer over the funerals of men and women, “Abū Ḥanīfah from Sulaymān ash-Shaybānī from ʿĀmir ash-Shaʿbī.”

In this chapter, “ʿĪsā ibn ʿAbdullāh ibn Mawhab narrated to us from Abū Hurayrah.” But in my view he was ʿUthmān ibn ʿAbdullāh ibn Mawhab al-Qurashī whom we have met before, and ʿĪsā was a mistake for ʿUthmān.

In this same chapter, “Al-Haytham narrated to us from Saʿīd ibn ʿUmar.”

In the chapter on walking along with the bier, “Abū Ḥanīfah from Ibrāhīm,” and thus it is in the book, but it is probable that “Ḥammād from Ibrāhīm” has dropped out of the chain of transmission.[1] But in my view it is not unlikely and there is no difficulty in [conceiving of] the Imām narrating from Ibrāhīm an-Nakhaʿī who was a contemporary of ash-Shaʿbī. Since Abū Ḥanīfah listened to ash-Shaʿbī, as we have seen already, then there is no harm in considering that he may have listened directly to Ibrāhīm.

Reflect upon it, and we will go into the details on that in its place, inshā’Allāh.

In the chapter on raising elevated mounds over graves, Abū Ḥanīfah said, “A shaykh of ours narrated to us ascribing it to the Prophet ﷺ.”

In the chapter on who has more right to lead the prayer over the deceased, “Abū Ḥanīfah from ʿAwn ibn ʿAbdullāh from ash-Shaʿbī.”

In this same chapter, Abū Ḥanīfah said, “A man informed me from al-Ḥasan.”

In the chapter on washing [the body of] the *shahīd*, “Sālim ibn [ʿIjlān] al-Afṭas.”

In this same chapter, “Ziyād ibn ʿIlāqah narrated to us from ʿAbdullāh ibn al-Ḥārith.”

In the chapter on visiting graves, “ʿAlqamah ibn Marthad narrated to us from Ibn Buraydah.”

In this same chapter, “Yaḥyā ibn ʿAmr ibn Salamah narrated to us from his father.”

In the chapter on recitation of the Qur’ān, “ʿĀṣim ibn Abi’n-Najūd narrated to us from Abu’l-Aḥwaṣ.”

In the chapter on fasting while travelling or breaking the fast, “Ibrāhīm ibn Muslim narrated to us from a man from Banī Suwā’ah ibn ʿĀmir.”

In the chapter on a fasting person kissing or embracing, “Ziyād ibn ʿIlāqah narrated to us from ʿUmar ibn Maymūn.”

In this same chapter, “A man narrated to us from ʿĀmir ash-Shaʿbī.”

In the chapter on the merits of fasting, “ʿAlī ibn al-Aqmar narrated to us.”

In the chapter on the *zakāh* of gold and silver and on an orphan’s property, “Layth ibn Abī Sulaym narrated to us from Mujāhid.”

In this same chapter, “Abū Bakr narrated to us from ʿUthmān ibn ʿAffān.”

In this same chapter, “Al-Haytham narrated to us from Ibn Sīrīn.”

In the chapter on *zakāh* of crops and the tenth, "Abū Ḥanīfah from Abū Ṣakhrah al-Muḥāribī from Ziyād ibn Ḥuḍayr." "Al-Haytham narrated to us from Anas ibn Sīrīn."

In the chapter on how *zakāh* is paid, "ʿAmr ibn Jubayr narrated to us from Ibrāhīm an-Nakhaʿī."

In the chapter on the *zakāh* of livestock, "ʿAṭā' ibn as-Sā'ib narrated to us from al-Ḥasan."

In the chapter on *iḥrām* and the cry *labbayk*, "ʿUbaydullāh ibn ʿUmar narrated to us from Nāfiʿ."

In the chapter on the *qirān* and the merit of *iḥrām*, "Manṣūr ibn al-Muʿtamir narrated to us from Ibrāhīm."

In this same chapter, "ʿAmr ibn Murrah narrated to us from ʿAbdullāh ibn Salamah."

In this same chapter, "A shaykh from Rabīʿah narrated to us from Muʿāwiyah ibn Isḥāq al-Qurashī."

In this same chapter, "Ayyūb ibn ʿĀ'idh aṭ-Ṭā'ī narrated to us from Mujāhid."

In this same chapter, "Muḥammad ibn Mālik al-Hamdānī narrated to us from his father."

In the chapter on *ṭawāf* and recitation at the Kaʿbah, "Abū Ḥanīfah from a man from ʿAṭā' ibn Abī Rabāḥ."

In the chapter on ʿUmrah in the months of Ḥajj, "Yazīd ibn ʿAbd ar-Raḥmān narrated to us from an old woman of al-ʿAtīk," and she was Amatullāh bint ʿĀmir.

In the chapter on someone who has sexual intercourse with his wife while he is in *iḥrām*, "Abū Ḥanīfah from ʿAbd al-ʿAzīz ibn Rufayʿ from Mujāhid."

In this same chapter, "Abū Ḥanīfah from ʿAṭā' ibn Abī Rabāḥ."

In the chapter on someone who is cupped while in *iḥrām* and on having one's hair cut, "Abū Ḥanīfah said, 'Abu's-Siwār [narrated to us] from Abū Ḥāḍir.'"

In the chapter on hunting while in *iḥrām*, "Muḥammad ibn al-Munkadir from Abū Qatādah."

In this same chapter, "Abū Salamah narrated to us from a man from Abū Hurayrah."

In this same chapter, “Hishām ibn ʿUrwah narrated to us from his father [ʿUrwah ibn az-Zubayr] from his grandfather [az-Zubayr ibn al-ʿAwwām].”

In this same chapter, “Abū Ḥanīfah from Muḥammad ibn al-Munkadir from ʿUthmān ibn Muḥammad.”

In this same chapter, “Al-Haytham ibn Abi’l-Haytham narrated to us from aṣ-Ṣalt ibn Ḥunayn.” But in the *Jāmiʿ al-masānīd* and the *Āthār* of Abū Yūsuf it is “Aṣ-Ṣalt ibn Jubayr,” which is correct.

In the chapter on someone whose sacrificial animal dies on the way, “Manṣūr ibn al-Muʿtamir narrated to us from Ibrāhīm.”

In the chapter on the clothing and perfume permitted to someone in *iḥrām*, “Abū Ḥanīfah from Khārijah ibn ʿAbdullāh from Saʿīd ibn al-Musayyab.”

In this same chapter, “ʿAṭā’ ibn as-Sā’ib narrated to us from Kathīr ibn Jumhān.”

In this same chapter, “Ibrāhīm ibn Muḥammad ibn al-Muntashir narrated to us from his father.”

In the chapter on what creatures the person in *iḥrām* kills, “Sālim al-Afṭas narrated to us from Saʿīd ibn Jubayr.”

In the chapter on the person in *iḥrām* contracting a marriage, “Abū Ḥanīfah from al-Haytham ibn Abi’l-Haytham.”

In the chapter on selling the houses of Makkah or renting them, “Abū Ḥanīfah from ʿAbdullāh ibn Abī Ziyād from Ibn Abī Najīḥ.”

In this same chapter, “ʿAbdullāh ibn Abī Ziyād narrated to us from Ibn Abī Najīḥ.”

In the chapter on oaths, “ʿAbdullāh ibn Ḥabībah from Abu’d-Dardā’ ﵁.”

In this same chapter, “ʿAbd al-Karīm ibn Abi’l-Mukhāriq narrated to us from Ṭāwus.”

In this same chapter, “ʿAlqamah ibn Marthad narrated to us from Ibn Buraydah al-Aslamī from his father.”

In this same chapter, “Qays ibn Muslim al-Jadalī narrated to us from Ṭāriq ibn Shihāb al-Aḥmasī.”

In this same chapter, he said, “Once while I was with ʿAṭā’ ibn Abī Rabāḥ, ʿAlqamah ibn Marthad asked him....”

In this same chapter, "ʿAṭā' ibn Abī Rabāḥ narrated to us from ʿAbdullāh ibn Rawāḥah ؓ."

In the chapter on intercession, "Abū Ḥanīfah from Salamah ibn Kuhayl from Abu'z-Zaʿzā'."

In this same chapter, "Abū Ḥanīfah from ʿAṭiyyah al-ʿAwfī from Abū Saʿīd al-Khudrī."

In this same chapter, "Abū Ḥanīfah from Shaddād ibn ʿAbd ar-Raḥmān from Abū Saʿīd al-Khudrī."

In this same chapter, "Abū Ḥanīfah from Yazīd ibn Ṣuhayb the one who was called al-Faqīr from Jābir."

In the chapter on affirmation of the Decree, "Abu'z-Zubayr narrated to us from Jābir."

In this same chapter, "Abū Ḥanīfah from ʿAbd al-ʿAzīz ibn Rufayʿ from Muṣʿab ibn Saʿd ibn Abī Waqqāṣ ؓ."

In this same chapter, "ʿAlqamah ibn Marthad narrated to us from Yaḥyā ibn Yaʿmar."

In this same chapter, "Abū Ḥanīfah from ʿAbd al-Aʿlā at-Taymī from his father."

In this same chapter, "Yazīd ibn ʿAbd ar-Raḥmān narrated to us from Abū Wāthilah or Ibn Wāthilah," Muḥammad was unsure as to which.

In the chapter on whom a free man is permitted to marry, "Qays ibn Muslim al-Jadalī narrated to us from al-Ḥasan ibn Muḥammad ibn ʿAlī ibn Abī Ṭālib."

In the chapter on whom a slave is permitted to marry, "Ismāʿīl ibn Umayyah al-Makkī narrated to us from Saʿīd ibn Abī Saʿīd al-Maqburī."

In the chapter on what is prohibited of marriage, and seeking the permission of a virgin, "ʿAbd al-Malik ibn ʿUmayr narrated to us from a man from Shām."

In the chapter on a man marrying a slave woman, then later buying her or she is set free, "Abū Ḥanīfah from Salamah ibn Kuhayl from al-Mustawrid ibn al-Aḥnaf."

In the chapter on temporary marriage, "Nāfiʿ narrated to us from Ibn ʿUmar."

In this same chapter, “Abū Ḥanīfah from Muḥammad ibn Shihāb az-Zuhrī from Muḥammad ibn ʿUbaydullāh.”

In this same chapter, “Yūnus narrated to us from Rabīʿ ibn Sabrah al-Juhaynī from his father.”

In the chapter on what marriage is forbidden, “Al-Ḥakam ibn ʿUtaybah narrated to us from ʿIrāk ibn Mālik.”

In this same chapter, “Ibrāhīm ibn Muḥammad al-Muntashir narrated to us from his father.”

In the chapter on whoever marries a woman but finds out she is not a virgin, “Abū Ḥanīfah from al-Haytham ibn Abi’l-Haytham from ʿĀ’ishah رضي الله عنها.”

In the chapter on marriage to women of equivalent standing, and on a husband’s rights over his wife, “Abū Ḥanīfah from a man from ʿUmar رضي الله عنه.”

In this same chapter, “Al-Ḥakam ibn Ziyād narrated to us ascribing it directly [to the Prophet ﷺ] as a *marfūʿ*.”

In this same chapter, “Ayyūb ibn ʿĀ’idh aṭ-Ṭā’ī narrated to us from Mujāhid.”

In the chapter on withdrawal [*coitus interruptus*] and what forms of sexual relations with women are forbidden, “Abū Khaytham [Haytham in the text] al-Makkī narrated to us from Yūsuf ibn Māhik,” but what is correct in my view is Ibn Khaytham al-Makkī who was ʿAbdullāh ibn ʿUthmān.

In this same chapter, “Abū Ḥanīfah from Kathīr al-Aṣamm ar-Rimāḥ from Abū Zarā’.” Thus it is in the book as Abū Zarāʿ [with an *ʿayn*], and the detailed investigation of that will come later in its place.

In this same chapter, “Ḥumayd al-Aʿraj narrated to us from a man from Abū Dharr رضي الله عنه.”

In the chapter on what is abhorred of having sexual intercourse with two sisters who are slave women and other matters, “Abū Ḥanīfah from al-Haytham from Ibn ʿUmar.”

In the chapter on a slave woman who is sold or given away while she has a husband, “Abū Ḥanīfah from al-Haytham from ʿAlī رضي الله عنه.”

In this same chapter, “Abu’l-Aṭūf from az-Zuhrī.”

In the chapter on someone who divorces three times or divorces once intending three times, “Abū Ḥanīfah from ʿAbdullāh ibn ʿAbd ar-Raḥmān ibn Abī Ḥusayn from ʿAmr ibn Dīnār.”

In the chapter on the impotent, “Ismāʿīl ibn Muslim al-Makkī narrated to us from al-Ḥasan.”

In the chapter on the divorce of someone who has pleurisy, a drunk and someone asleep, “Al-Haytham narrated to us from ash-Shaʿbī.”

In the chapter on someone who says, “If I marry so-and-so then she is divorced,” “Abū Ḥanīfah from Muḥammad ibn Qays from Ibrāhīm and ʿĀmir.”

In the chapter on a man who says to his wife “observe the *ʿiddah*,” “Al-Haytham ibn Abi’l-Haytham narrated to us ascribing it [to the Prophet ﷺ] as a *marfūʿ*.”

In the chapter on a woman divorced at her own request for some compensation paid by her (*khulʿ*), “Abū Ḥanīfah from al-Haytham ibn Abi’l-Haytham from ʿUmar ﵁.”

In the chapter on offering one’s wife the choice whether she wishes a divorce (*khiyār*), and expressions made to her such as “your affair is in your own hand [so if you choose, it can be divorce]”, “ʿAmr ibn Dīnār narrated to us from Jābir.”

In the chapter on divorce which comes about because of the man’s vowing to abstain from sexual intercourse (*īlā*), “ʿAmr ibn Murrah narrated to us from Abū ʿUbayd.”

In this same chapter, “Abu’l-ʿAṭūf narrated to us from az-Zuhrī.”

In the chapter on compensatory payments for manslaughter and injuries, and what is obligatory upon people whose currency is silver and those whose wealth is in livestock, “Abū Ḥanīfah from al-Haytham from ʿĀmir ash-Shaʿbī.”

In the chapter on compensatory payments for those bodily parts of which a man possesses only one, “Abū Ḥanīfah from al-Haytham ibn Abi’l-Haytham from ʿAlī ﵁.”

In the chapter on those things for which retaliation is impossible, "Abū Ḥanīfah from al-Haytham ibn Abi'l-Haytham from a man from Abū Bakr aṣ-Ṣiddīq ؓ."

In the chapter on the compensatory payment paid to [Jews or Christians under the *jizyah*] contract, "Abū Ḥanīfah from al-Haytham ibn Abi'l-Haytham."

In this same chapter, "Abū Ḥanīfah from Abu'l-ʿAṭūf from az-Zuhrī."

In the chapter on a woman's reneging on Islam, "Abū Ḥanīfah from ʿĀṣim ibn Abi'n-Najūd from Abū Razīn."

In the chapter on someone who kills a slave or a close relative, "ʿAbd al-Karīm narrated to us from a man."

In the chapter on *liʿān*, "Abū Ḥanīfah from Mujālid ibn Saʿīd from ʿĀmir ash-Shaʿbī."

In the chapter on discretionary punishments, "Al-Haytham ibn Abi'l-Haytham narrated to us from ʿĀmir ash-Shaʿbī."

In the chapter on averting *ḥadd* punishments, "Abū Ḥanīfah from al-Haytham ibn Abi'l-Haytham from a man."

In this same chapter, "Abū Ḥanīfah from ʿĀṣim ibn Abi'n-Najūd from Abū Razīn."

In the chapter on the punishment for drunkenness, "ʿAbd al-Karīm ibn Abi'l-Mukhāriq narrated to us ascribing the hadith [directly to the Prophet ﷺ] as a *marfūʿ*."

In the chapter on brigandage and theft, "Qāsim ibn ʿAbd ar-Raḥmān narrated to us from his father."

In this same chapter, "Abū Ḥanīfah from al-Haytham ibn Abi'l-Haytham from ash-Shaʿbī."

In this same chapter, "ʿĀmir ibn Murrah narrated to us from ʿAbdullāh ibn Maslamah."

In this same chapter, "Ibrāhīm ibn Muḥammad ibn al-Muntashir narrated to us from his father from Yazīd ibn Abī Kabshah."

In this same chapter, "A man narrated to us from al-Ḥasan."

In the chapter on the testimony of someone punished for transgressing the limits, "Al-Haytham ibn Abi'l-Haytham narrated to us from ʿĀmir ash-Shaʿbī."

In this same chapter, "Al-Haytham narrated to us from ʿĀmir from Shurayḥ."

In the chapter on false testimony, "Abū Ḥanīfah from al-Haytham ibn Abi'l-Haytham from Ḥudhayfah from Shurayḥ."

In this same chapter, "A man narrated to us from ash-Shaʿbī."

In the chapter on those whose testimony is not accepted on behalf of close relatives and others, "Al-Haytham narrated to us from Shurayḥ."

In this same chapter, "Al-Haytham narrated to us from ʿĀmir ash-Shaʿbī."

In the chapter on what bequests are valid, "ʿAṭā' ibn as-Sā'ib narrated to us from his father."

In this same chapter, "Al-Qāsim ibn ʿAbd ar-Raḥmān narrated to us from his father."

In the chapter on the merit of setting slaves free, "Abū Ḥanīfah from ʿImrān ibn ʿUmayr from his father."

In the chapter on a slave who is owned in partnership by two men and then subsequently one of the two sets his portion of the slave free, "Yazīd ibn ʿAbd ar-Raḥmān narrated to us from al-Aswad."

In the chapter on someone who dies and does not leave a Muslim heir, "Al-Haytham narrated to us from ʿĀmir ash-Shaʿbī."

In the chapter on the inheritance of freed slaves, "Muḥammad ibn Qaws al-Hamdānī narrated to us saying, 'A man came…'"

In the chapter on a property the use of which is granted to someone for their lifetime, "Bilāl narrated to us from Wahb ibn Kaysān from Jābir ibn ʿAbdullāh."

In this same chapter, "Ḥabīb ibn Abī Thābit narrated to us from ʿAbdullāh ibn ʿUmar."

In the chapter on the inheritance of a foundling[2] and the child to whom two men both lay claim, "Abū Ḥanīfah from al-Mujālid ibn Saʿīd from ʿĀmir ash-Shaʿbī."

In the chapter on making exceptions in oaths, "Abū Ḥanīfah from al-Qāsim ibn ʿAbd ar-Raḥmān from his father."

In this same chapter, "ʿUbaydullāh narrated to us from Saʿīd ibn Jamīl."

In the chapter on vowing acts of disobedience, "Muḥammad ibn az-Zubayr narrated to us from al-Ḥasan."

In this same chapter, "Abū Ḥanīfah said, 'I heard ash-Shaʿbī saying…'"

In the chapter on someone who commits himself to sacrificing his son or himself, "Simāk ibn Ḥarb narrated to us from Muḥammad ibn al-Muntashir."

In the same chapter, "Simāk ibn Ḥarb narrated to us from Muḥammad ibn al-Muntashir."

In the chapter on trade and making conditions in sales, "Yaḥyā ibn ʿĀmir narrated to us from a man," but it is a mistake, and the correct chain of transmission is "Yaḥyā narrated to us from ʿĀmir." Yaḥyā was Ibn ʿUbaydullāh al-Ḥimyarī and ʿĀmir was ash-Shaʿbī as is in *Taʿjīl* [*al-manfaʿah*], so pay attention to that.

In this same chapter, "Abū Ḥanīfah said, 'I heard ʿAṭā' ibn Abī Rabāḥ.'"

In the chapter on someone who sells date-palms full of fruit or a slave who has his own property, "Abū Ḥanīfah from Abu'z-Zubayr from Jābir."

In the chapter on someone who buys goods and finds a defect in them or [that a slave has a] pregnancy, "Abū Ḥanīfah from al-Haytham from Ibn Sīrīn."

In the chapter on separating a woman slave and her husband and child, "ʿAbdullāh ibn al-Ḥasan narrated to us saying, 'Zayd ibn Ḥārithah came…'"

In the chapter on forward buying (paying in advance) in which he takes some of it and takes of his capital, "Abū ʿAmr narrated to us from Saʿīd ibn Jubayr."

In the chapter on trade in expressed fruit juices and wine, "Muḥammad ibn Qays narrated to us from Ibn ʿUmar."

In this same chapter, "Muḥammad ibn Qays narrated to us from a man of Thaqīf."

In the chapter on buying gold and silver set in jewellery and on precious stones, “Al-Walīd ibn Sarīᶜ narrated to us from Anas ibn Mālik.”

In the chapter on purchasing heavy dirhams with light ones and on usury, “Marzūq narrated to us from Abū Laylah from Ibn ᶜUmar,” and thus it is in the book but the correct chain of transmission is that it is “from Abū Jabalah”.

In this same chapter, “ᶜAṭiyyah al-ᶜAwfī narrated to us from Abū Saᶜīd al-Khudrī.”

In the chapter on property and pre-emption, “ᶜAbd al-Karīm narrated to us from al-Miswar ibn Makhramah.”

In the chapter on profit-sharing transactions in trade for a third, or with the property of an orphan, “Abū Ḥanīfah from al-Haytham from a man.”

In this same chapter, “Layth ibn Abī Sulaym narrated to us from Mujāhid.”

In the chapter on what extra amount is disapproved of when someone rents a thing, “Abū Ḥanīfah from Ḥammād from Abu’l-Husayn ᶜUthmān ibn ᶜĀṣim,” and thus it is in the book, but the correct chain of transmission is without “from Ḥammād”, for the Imām narrates from ᶜUthmān ibn ᶜĀṣim without the intermediary of Ḥammād, but the scribe who wrote the book added in “from Ḥammād” thinking that he narrated it from him, which is not the case.

In this same chapter, “Abū Ḥanīfah from ᶜAbdullāh ibn Abī Ziyād from Ibn Abī’-Najīḥ.”

In the chapter on the guarantee of a participating worker, “Abū Ḥanīfah from Bishr or Bashīr – Muḥammad was in doubt – from Abū Jaᶜfar Muḥammad ibn ᶜAlī.”

In the chapter on pledges and borrowed items, “Abū Ḥanīfah from ᶜAlī ibn al-Aqmar from Shurayḥ.”

In the chapter on the sacrifice of the *ᶜĪd al-Aḍḥā*, and castration of stallions, “Al-Haytham narrated to us from ᶜAbd ar-Raḥmān ibn Sābiṭ.”

In this same chapter, “Abū Ḥanīfah from Kidām ibn ʿAbd ar-Raḥmān from Abū Kibāsh.”

In this same chapter, “Muslim al-Aʿwar narrated to us from a man.”

In the chapter on slaughtered animals, “Abū Ḥanīfah from Yazīd ibn ʿAbd ar-Raḥmān from a man from Jābir.”

In this same chapter, “Abū Ḥanīfah from al-Haytham from ʿĀmir ash-Shaʿbī.”

In this same chapter, “ʿAbd al-Malik ibn Abī Bakr narrated to us from Nāfiʿ.”

In this same chapter, “Saʿīd ibn Masrūq narrated to us from ʿAbāyah from Rifāʿah.”

In this same chapter, “Abū Ḥanīfah from Saʿīd ibn Masrūq from ʿAbāyah ibn Rifāʿah from Ibn ʿUmar ؓ.”

In the chapter on the slaughter of a foetus, “A man narrated to us from Muḥammad ibn al-Ḥanafīyyah.”

In the chapter on what in a ewe is disapproved of and on blood, “Muḥammad said, ‘ʿAbd ar-Raḥmān ibn ʿAmr al-Awzāʿī informed us,’” about which we have seen previously in the section on Imām Muḥammad’s shaykhs, but in *Jāmiʿ al-masānīd* it is, “Abū Ḥanīfah from ʿAbd ar-Raḥmān ibn ʿAmr al-Awzāʿī.” I have pointed this out there so think about it.

In the chapter on what meat of predatory animals is disapproved, “Makḥūl ash-Shāmī narrated to us from Abū Thaʿlabah,” whereas in *Jāmiʿ al-masānīd* Abū Thaʿlabah is an extra narrator and so for this reason I have added him in here.

In this same chapter, “Abū Ḥanīfah from al-Haytham from Ibn ʿAbbās ؓ.”

In the chapter on eating cheese, “ʿAṭiyyah al-ʿAwfī narrated to us from Ibn ʿUmar ؓ.”

In the chapter on what is caught by hunting dogs, “Qatādah narrated to us from Abū Qilābah.”

In the chapter on drinks and different types of *nabīdh*, “Abū Ḥanīfah from Sulaymān ash-Shaybānī from Ibn Ziyād.”

In this same chapter, “Abū Ḥanīfah from Nāfiʿ from Ibn ʿUmar.”

In the chapter on strong *nabīdh*, “Mazāḥim ibn Zufar narrated to us from aḍ-Ḍaḥḥāk ibn Mazāḥim.”

In this same chapter, “Abū Isḥāq as-Sabīʿī narrated to us from ʿAmr ibn Maymūn al-Awdī.”

In the chapter on cooked *nabīdh*, “Al-Walīd ibn Sarīʿ, the *mawlā* of ʿAmr ibn Ḥārith, narrated to us from Anas ibn Mālik.”

In the chapter on intoxication from wine, “Abū Ḥanīfah from al-Haytham from Ibn Masʿūd ؓ.”

In the chapter on drinking from vessels, “ʿAlqamah ibn Marthad narrated to us from Ibn Buraydah from his father.”

In this same chapter, “Isḥāq ibn Thābit narrated to us from his father from ʿAlī ibn Ḥusayn.”

In this same chapter, “Sālim al-Afṭas narrated to us from Saʿīd ibn Jubayr.”

In the chapter on drinking from gold and silver vessels, “Abū Farwah narrated to us from ʿAbd ar-Raḥmān,” and you will remember what I previously said about this chain of transmission.

In the chapter on clothing of silk, reputation, and fabric, “Abū Ḥanīfah from Sulaymān ibn Abi’l-Mughīrah who said, ‘Buḥayr asked Saʿīd ibn Jubayr while I was sitting there…’” whereas in *Jāmiʿ al-masānīd* it is Sulaymān ibn al-Mughīrah, and in its abridgement it is Saʿīd ibn al-Musayyab rather than Saʿīd ibn Jubayr, and by Jubayr – in the diminutive form – who was Ibn Abi’l-Bujayr from the Ḥijāz and who narrated from Ismāʿīl ibn Umayyah from whom Abū Dāwūd narrated concerning the story of Abū Righāl. In the abridgement of the *Jāmiʿ* it is Baḥīr with a *ḥā’* and not in the diminutive form just as it is in the book itself, and he was Baḥīr ibn Saʿd who narrated from Khālid ibn Maʿdān and Makḥūl, from whom Ismāʿīl ibn ʿAyyāsh and Baqiyah narrated and whom Ibn Ḥibbān regarded as a trustworthy narrator. The other Baḥīr was Ibn Sālim whom Ibn Ḥibbān also regarded as a trustworthy narrator and from whom Yaʿlā narrated.

In this same chapter, “Al-Haytham ibn Abi’l-Haytham al-Baṣrī narrated to us that ʿUthmān ibn ʿAffān…”

In this same chapter, “Saʿīd ibn al-Marzubān narrated to us from ʿAbdullāh ibn Abī Awfā.”

In this same chapter, “Zayd ibn Abī Anīsah narrated to us from a man from the people of Egypt.”

In this same chapter, “Abū Ḥanīfah from ʿAmr ibn Dīnār from ʿĀ’ishah.”

In the chapter on wearing gold rings, “Ibrāhīm ibn Muḥammad ibn al-Muntashir narrated to us from his father.”

In the chapter on jihad in the Way of Allah, “Abū Ḥanīfah from ʿAlqamah ibn Marthad from Ibn Buraydah from his father.”

In the chapter on the spoils of battle and booty, “ʿUbaydullāh ibn Dāwūd narrated to us from al-Mundhir ibn Abī Ḥamṣah.” In *ʿUqūd al-jawāhir* it is Abū Ḥafṣah, so pay attention to that.

In the chapter on the merits of the Companions, “Abū Ḥanīfah from al-Haytham from ash-Shaʿbī.”

In this same chapter, “Abū Ḥanīfah from ʿAlī ibn al-Aqmar who said, ...”

In this same chapter, “Abū Jaʿfar Muḥammad ibn ʿAlī narrated to us, ‘’Ali ibn Abī Ṭālib came...’”

In the chapter on truthfulness and lying, backbiting and slander, “Maʿn ibn ʿAbd ar-Raḥmān narrated to us from ʿAbdullāh ibn Masʿūd ﵁.”

In this same chapter, “Abū Ḥanīfah from Ibrāhīm ibn Muḥammad al-Muntashir from his father.”

In the chapter on joining ties of kinship and treating parents well, “Abū Ḥanīfah from Naṣīḥ [ibn ʿAbdullāh the Kūfan] from Yaḥyā ibn Abī Kathīr al-Yamāmī.”

In this same chapter, “Abū Ḥanīfah from Muḥammad ibn Sawqah, that a man...”

In the chapter that whoever shows others the way to doing a good action is just as someone who does a good action, “Abū Ḥanīfah said, ‘ʿAlqamah ibn Marthad informed us...’” and in this chapter, he said, “he informed us,” where ordinarily Abū Ḥanīfah would say, “so-and-so narrated to us” in his narrating from his shaykhs or he would say, “from so-and-so” as you have learnt in this section, and possibly this is an alteration by one of the scribes.

In the chapter on celebrations for a wedding (*walīmah*), “Abū Ḥanīfah from al-Haytham.”

In the chapter on invitations, “Muḥammad ibn Qays narrated to us that Abu’l-ʿAwjā’ al-ʿAshshār who was a friend of Masrūq...”

In this same chapter, “Abū Ḥanīfah from ʿĀṣim ibn Kulayb from a man.”

In the chapter on gentleness and meanness, “Ayyūb ibn ʿĀ’idh narrated to us from Mujāhid.”

In the chapter on charming against the ‘eye’, “Nāfiʿ narrated to us from Ibn ʿUmar.”

In this same chapter, “ʿUbaydullāh ibn Abī Ziyād narrated to us from Abū Najīḥ.”

In the chapter on the reward [for catching] a runaway slave, “Abū Ḥanīfah from Saʿīd ibn al-Marzubān from Abū ʿUmar or Ibn ʿUmar – Muḥammad was unsure as to which.”

In this same chapter, “Ibn Abī Rabāḥ narrated to us from his father from ʿAbdullāh.”

In the chapter on someone who stumbles on lost property which he recognises, “Abū Ḥanīfah said, ‘Abū Isḥāq informed us from a man from ʿAlī ؓ,” in which he also said, “informed us”.

In the chapter on tattoos and tying hairpieces, “Al-Haytham narrated to us from Umm Thawr.”

In the chapter on removing hair from the face, “Ziyād ibn ʿIlāqah narrated to us from ʿAmr ibn Maymūn.”

In this same chapter, “Abū Ḥanīfah from al-Haytham from Ibn ʿUmar ؓ.”

In the chapter on dyeing [the beard and hair, and the hands] with henna and indigo [or woad], “ʿUthmān ibn ʿAbdullāh narrated to us from Umm Salamah.”

In this same chapter, “Abū Ḥujayyah narrated to us from Ibn Buraydah from Abu’l-Aswad ad-Du’alī[3].”

In this same chapter, “Muḥammad ibn Qays narrated to us.”

In this same chapter, “Abū Ḥanīfah from Yazīd ibn ʿAbd ar-Raḥmān from Anas ibn Mālik.”

In the chapter on drinking remedies, the milk of cattle, and cauterisation, “Qays ibn Muslim narrated to us from Ṭāriq ibn Shihāb.”

In this same chapter, “ʿAṭā’ ibn Abī Rabāḥ narrated to us from Abū Hurayrah.”

In the chapter on the non-Muslim living in a *dhimmah* contract under Muslim governance greeting a Muslim, and whether he returns the greeting, “Al-Haytham narrated to us from Ibn Masʿūd ؓ.”

In the chapter on the Night of the Decree, “ʿĀṣim ibn Abi’n-Najūd narrated to us from Zirr ibn Ḥubaysh.”

In the chapter on whoever does an action..., “A shaykh of ours narrated to us ascribing it [to the Prophet ﷺ] as a *marfūʿ*.”

In the chapter on amirate, “Abū Ḥanīfah from Abū Ghassān from al-Ḥasan al-Baṣrī.”

In all these are two hundred and forty-five places in which Imām Abū Ḥanīfah narrated from someone other than Ḥammād ibn Abī Sulaymān, may Allah, exalted is He, have mercy on them.

[1] The text from which we worked has nothing here directly from Ibrāhīm to Abū Ḥanīfah. – Trans.

[2] *ḥamīl* – a foundling – is specified by Imām Muḥammad as the case when a woman is captured in warfare and she is carrying a small child. – Trans.

[3] Also ad-Dūlī or ad-Du’alī. Ed.

Appendix IV

GLOSSARY

A

adhān: the call to prayer [ref. 21.58 to 21.64]
ʿāqilah: Those who pay the compensatory payment for homicide, they are the people of the *dīwān* or the tribe of the killer
ʿaqīqah: the offering of a sacrificial animal at the birth of a child
athīlah: a sheep or goat that is being fattened for eating

B

basmalah: the phrase "In the name of Allah, the Most Merciful, the All Merciful"

D

dhimmah: The protection and safety enjoyed by People of the Book living under Muslim governance in return for paying the *jizyah*
dīwān: The register in which is recorded the people who receive stipends, and the army. ʿUmar ibn al-Khaṭṭāb recorded the *dīwān* and the people of the *dīwān* are responsible for compensatory payments.

G

ghusl: the complete washing of the entire body

H

ḥadath: that which nullifies *wuḍū’*
ḥadd: the punishment prescribed for specific crimes
hady: the offering of a sacrificial animal in Makkah
ḥalāl: that which is deemed permissible in Sharʿiah
ḥarām: that which the Sharʿiah interdicts

I

ʿĪd: the festivals marking the end of the fast of Ramadan and the culmination of the Ḥajj
ʿiddah: the period when the divorced or widowed woman waits before being eligible for remarriage.
iḥrām: the condition of pilgrim sanctity for someone performing the Ḥajj or ʿUmrah
iḥtibā’: to squat in such a fashion that one ties a cloth or a turban around the legs and back to prevent oneself from falling. It was a characteristic Arabic way of sitting without actually sitting down.
ifrād: a style of Ḥajj whereby one enters into *iḥrām* and performs the Ḥajj first before entering into *iḥrām* again to perform ʿUmrah.
īlā’ divorce: a divorce in which a man swears to abstain from sexual intercourse from his wife
īmān: acceptance of, and trust in and affirmation of Allah, His Messengers, His Books, His angels, the Last Day and that the Decree of good and evil is from Him
iqāmah: the second call to prayer done in the mosque prior to the prayer
istiḥāḍah: chronic menstrual bleeding or dysfunctional uterine bleeding
istijmār: cleaning one’s private parts with stones after urinating or defecating
istinjā’: cleaning one’s private parts with water after urinating or defecating

J

janābah: being in need of a ghusl because of sexual intercourse or a nocturnal emission. It covers the condition resulting from ejaculation while asleep or awake, and sexual intercourse with or without ejaculation.

janāzah: the funeral

jihād: striving and fighting to see that the Word of Allah is uppermost.

jizyah: tax paid by People of the Book who agree to live under Muslim governance

Jumuʿah: The day of Friday on which Muslims congregate in prayer

junub: in a condition of *janābah*

jurmūq: leather galoshes, whose shank is shorter than the hind part, worn over the leather sock

K

khazz: wool woven with silk

khulʿ divorce: a divorce initiated by the woman in which she buys her freedom from the marriage contract

khuṭbah: an address, as that given on the day of Jumuʿah or an ʿĪd

L

labbayk: the prayer recited by pilgrims on the way to Ḥajj

liʿān divorce: the procedure outlined in Surat an-Nur in which a couple, one of whom accuses the other of adultery, enter into a process involving laying curses on themselves if they are lying.

M

madhy: pre-ejaculatory fluid, which is a liquid that emerges from the sexual organs upon sexual arousal. It necessitates washing the private parts completely, cleaning the fluid off underwear or clothing, and repeating *wuḍū’*

maḥram: someone ineligible to marry a woman under any circumstances who may legitimately accompany her, e.g. a father, brother etc.

mākhiḍ: a ewe or she-goat in whose womb is a lamb or kid, 92.390

mawlā: a freed slave and also someone affiliated to a tribe

mu’adhdhin: the person who calls people to prayer with the *adhān*

mu’akkad: confirmed sunnah

mudabbar slave: a slave that is to be set free on the death of his master

muḥṣan: a Muslim who is married to or has once been married to a free woman

mukātab slave: a slave who writes a contract to purchase his freedom 184.584-5

mustaḥāḍah: a woman suffering from chronic menstrual bleeding or what is known medically as “dysfunctional uterine bleeding”

N

nabīdh: a drink made of dates or raisins steeped in water

najāsah: filth the presence of which on one’s person, clothes or place of prayer invalidates the prayer

Q

qiblah: the direction of Makkah faced in the prayer

qirān: a style of Ḥajj whereby one enters into *iḥrām* intending both Ḥajj and ʿUmrah

qunūt: the supplication that, according to the Ḥanafī madhhab, is made in the last *rakʿah* of the *witr* prayer

R

rubbā: a ewe or she-goat that is raising and suckling its young

S

ṣadaqah: giving or spending of one's substance. It sometimes refers to zakāh and sometimes to optional extra acts of giving, and even sometimes to expiatory acts of generosity
saʿy: to run between the hills of Ṣafā and Marwah as a rite of Ḥajj or ʿUmrah.
shahīd: literally a witness, i.e. someone who dies in the way of Allah
sutrah: a barrier placed in front of someone praying

T

takbīr: saying '*Allāhu akbar*'
talbiyah: the practice of saying '*labbayk*' for someone about to perform the Ḥajj or ʿUmrah
tamattuʿ: a style of Ḥajj whereby one enters into *iḥrām* and performs ʿUmrah first, then comes out of *iḥrām*, before entering into *iḥrām* in Makkah for the Ḥajj.
tashahhud: the final part of the prayer which is said while sitting
tashrīq: the three days after the first day of ʿĪd al-Aḍḥā which are known as the 'days of drying the meat' (*tashrīq*) when the meat of sacrifice can be dried
tayammum: the purification with dry earth preparatory for the prayer done in place of *wuḍū'* when the latter is not possible.
taʿzīr: a punishment given at the discretion of a ruler or a *qāḍī*, which must be less severe than the *ḥadd* punishment

W

walā’: the relationship between the freed slave (*mawlā*) and his former master which includes the latter’s inheritance from the former in case of his death.
walīmah: a feast held to celebrate a wedding
wuḍū’: washing done preparatory for the prayer, reciting Qur’ān from a textual copy or other acts of worship

Z

ẓihār divorce: a divorce wherein a man declares his wife forbidden to him
zuhd: abstinence from the things of this world.

Appendix V

RIJAL – NARRATORS, AND THE MAJOR HADITH COLLECTORS WHO TRANSMITTED THEIR HADITH

1. Abān ibn Abī ʿAyyāsh al-Baṣrī
   Abū Dāwūd in his *Sunan* collection.
2. Ibrāhīm ibn ʿAbdullāh ibn Qays Abū Mūsā al-Ashʿarī
   Muslim, and an-Nasā'ī and Ibn Mājah in their *Sunan* collections.
3. Ibrāhīm ibn Muḥammad ibn al-Muntashir ibn al-Ajdaʿ al-Hamdānī al-Kūfī
   The authors of the six books
4. Ibrāhīm ibn Muslim al-ʿAbdī Abū Isḥāq al-Kūfī who is best known as al-Hajarī
   Ibn Mājah in his *Sunan*
5. Ibrāhīm ibn Yazīd ibn Qays ibn al-Aswad ibn ʿAmr ibn Rabīʿah ibn Dhuhl an-Nakhaʿī
   The authors of the six books
6. Ibrāhīm ibn Yazīd al-Khūzī al-Amawī Abū Ismāʿīl al-Makkī
   At-Tirmidhī in his *Sunan* and an-Nasā'ī in his *Sunan*
7. Ubayy ibn Kaʿb ibn Qays ibn ʿUbayd ibn Zayd ibn Muʿāwiyah ibn ʿAmr ibn Mālik Abu'l-Mundhir
   The authors of the six books
8. Ajlaḥ ibn ʿAbdullāh ibn Ḥujayyah al-Kūfī
   The authors of the six books apart from Muslim
9. Isḥāq ibn Thābit
10. Asad ibn ʿAmr ibn ʿĀmir al-Bajalī
    Aḥmad
11. Ismāʿīl ibn Umayyah ibn ʿAmr ibn Saʿīd ibn al-ʿĀṣ
    The authors of the six books
12. Ismāʿīl ibn ʿAbd al-Malik ibn aṣ-Ṣufayr al-Asadī the father of ʿAbd al-Malik al-Makkī and nephew of ʿAbd al-ʿAzīz ibn Rufayʿ

Abū Dāwūd in his *Sunan*, at-Tirmidhī in his *Sunan*, Ibn Mājah in his *Sunan*, and al-Bukhārī in *Juz’ al-yadayn*

13. Ismāʿīl ibn Muslim al-Makkī Abū Isḥāq al-Baṣrī
    At-Tirmidhī in his *Sunan*, Ibn Mājah in his *Sunan*
14. Aswad ibn Yazīd ibn Qays an-Nakhaʿī Abū ʿAmr, and some say Abū ʿAbd ar-Raḥmān
    The authors of the six books
15. Aflaḥ the brother of Abu’l-Quʿays
16. Anas ibn Sīrīn al-Anṣārī Abū Mūsā the *mawlā* of Anas, but some say that his *kunyah* is something else
    The authors of the six books
17. Anas ibn Mālik, the Companion, ibn an-Naḍr ibn Ḍamḍam al-Anṣārī Abū Ḥamzah, the servant of the Messenger of Allah ﷺ, who came to reside in Baṣra
    The authors of the six books
18. Ayyūb ibn ʿĀ’idh ibn Mudlij aṭ-Ṭā’ī al-Bukhturī al-Kūfī
    Al-Bukhārī in his *Ṣaḥīḥ*, Muslim in his *Ṣaḥīḥ*, at-Tirmidhī in his *Sunan*, an-Nasā’ī in his *Sunan*
19. Ayyūb ibn ʿUtbah al-Yamāmī
    Ibn Mājah in his *Sunan*
20. Ayyūb ibn Abī Tamīmah Kaysān as-Sakhtiyānī Abū Bakr the Baṣran
    The authors of the six books
21. Birwaʿ bint Wāshiq ar-Ru’āsiyyah al-Kilāsiyyah and al-Ashjaʿiyyah
22. Buraydah ibn al-ʿUṣayb ibn ʿAbdullāh ibn al-Ḥārith al-Aslamī
    The authors of the six books
23. Bishr or Bashīr
    The authors of the six books
24. Bakr ibn ʿAbdullāh al-Muzanī
    The authors of the six books
25. Bilāl ibn Rabāḥ at-Taymī (their *mawlā*), the Companion, the *mu’adhdhin*
    The authors of the six books
26. Bilāl ibn Mirdās
    Abū Dāwūd in his *Sunan*, at-Tirmidhī in his *Sunan*, an-Nasā’ī in

his *Sunan*

27. Tammām ibn al-ʿAbbās ibn ʿAbd al-Muṭṭalib al-Hāshimī
    The authors of the six books
28. Jābir ibn Zayd al-Azdī al-Jawfī al-Ḥumaydī Abu'sh-Shaʿthā'
    The authors of the six books
29. Jābir ibn ʿAbdullāh al-Anṣārī the Companion
    The authors of the six books
30. Jāmiʿ ibn Shaddād al-Muḥāribī Abū Ṣakhrah al-Kūfī
    The authors of the six books
31. Jarrāḥ ibn Minhāl Abu'l-ʿAṭūf al-Jazarī
32. Jarīr ibn ʿAbdullāh ibn Jābir and he is as-Sulayl ibn Mālik al-Bajalī an-Nisr
    Al-Bukhārī in *Rafʿ al-yadayn*, the authors of the six books
33. Jaʿfar ibn Tammām ibn al-ʿAbbās ibn ʿAbd al-Muṭṭalib al-Hāshimī
34. Jaʿfar ibn Abī Ṭālib ibn ʿAbd al-Muṭṭalib al-Hāshimī
    An-Nasā'ī in *al-Yawm wa'l-laylah*
35. Jundub ibn ʿAbdullāh ibn Sufyān al-Bajalī
    The authors of the six books
36. Jawwāb ibn ʿUbaydullāh at-Taymī al-Kūfī
    Al-Bukhārī in *Juz' al-qirā'ah*, an-Nasā'ī in *Musnad ʿAlī*
37. Al-Ḥārith ibn Abī Rabīʿah
    Muslim in his *Ṣaḥīḥ*, Abū Dāwūd in his *Marāsīl*, an-Nasā'ī in his *Sunan*
    Al-Ḥārith ibn Ziyād is correctly Muḥārib ibn Dithār
38. Al-Ḥārith ibn ʿAbd ar-Raḥmān
    Al-Bukhārī in *Khalq afʿāl al-ʿibād*, Muslim in his *Ṣaḥīḥ*, Abū Dāwūd in his *Marāsīl*, at-Tirmidhī in his *Sunan*, an-Nasā'ī in his *Sunan*, Ibn Mājah in his *Sunan*
39. Ḥabīb ibn Abī Thābit
    The authors of the six books
40. Ḥudhayfah ibn al-Yamān the Companion
    The authors of the six books
41. Ḥurqūṣ
42. Al-Ḥasan al-Baṣrī
    The authors of the six books.

43. Al-Ḥasan ibn Muḥammad ibn ʿAlī ibn Abī Ṭālib al-Hāshimī
The authors of the six books
44. Al-Ḥusayn ibn ʿAlī ibn Abī Ṭālib al-Hāshimī
The authors of the six books
45. Ḥuṣayn ibn ʿAbd ar-Raḥmān as-Sulamī
The authors of the six books
46. Ḥafṣah bint ʿUmar ibn al-Khaṭṭāb
The authors of the six books
47. Ḥakam ibn Ziyād
48. Ḥakam ibn ʿUtaybah al-Kindī (their *mawlā*) Abū Muḥammad
The authors of the six books
49. Ḥammād ibn Abī Sulaymān al-Ashʿarī (their *mawlā*) Abū Ismāʿīl al-Kūfī
Al-Bukhārī in *al-Adab al-mufrad*, the authors of the six books apart from al-Bukhārī
50. Ḥumrān the *mawlā* of al-ʿAbalāt
An-Nasā'ī in his *Sunan*
51. Ḥamalah ibn ʿAbd ar-Raḥmān al-Makkī
52. Ḥumayd ibn Qays al-Aʿraj al-Makkī, Abū Ṣafwān al-Qārī
The authors of the six books
53. Ḥanẓalah ibn Nabātah al-Juʿfī
54. Khārijah ibn ʿAbdullāh
At-Tirmidhī in his *Sunan*, an-Nasā'ī in his *Sunan*
55. Khabbāb ibn al-Aratt ibn Jandalah ibn Saʿd at-Tamīmī
The authors of the six books
56. Khuthaym ibn ʿIrāk ibn Mālik al-Ghifārī al-Madanī
Al-Bukhārī in his *Ṣaḥīḥ*, Muslim in his *Ṣaḥīḥ*, an-Nasā'ī in his *Sunan*
57. Khilās ibn ʿAmr al-Hajarī al-Baṣrī
The authors of the six books
58. Dharr al-Hamdānī
The authors of the six books
59. Rāfiʿ ibn Khadīj al-Anṣārī the Companion
60. Ribʿī ibn Ḥirāsh ibn Jaḥsh ibn ʿAmr ibn ʿAbdullāh al-ʿAbsī
The authors of the six books

61. Ar-Rabīʿ ibn Sabrah ibn Maʿbad (al-Juhanī)
    The authors of the six books apart from al-Bukhārī
62. Ar-Rabīʿ ibn Ṣabīḥ as-Saʿdī
    Al-Bukhārī narrated from him in his *Ṣaḥīḥ* as *taʿlīq*, at-Tirmidhī in his *Sunan*, Ibn Mājah in his *Sunan*
63. Zubayd al-Yāmī
    The authors of the six books
64. Az-Zubayr ibn al-ʿAwwām ibn Khuwaylid ibn Asad ibn ʿAbd al-ʿUzzā ibn Quṣayy ibn Kilāb al-Asadī
    The authors of the six books
65. Zirr ibn Ḥubaysh al-Asadī
    The authors of the six books
66. Zufar ibn al-Hudhayl al-ʿAnbarī
67. Zuhayr ibn ʿAbdullāh al-Azdī
    He is mentioned in *Jawā'iz al-ʿummāl* but he has no narrations
68. Ziyād ibn Ḥudayr al-Asadī
    Abū Dāwūd in his *Sunan*
69. Ziyād ibn ʿIlāqah Abū Mālik ath-Thaʿalabī
    The authors of the six books
70. Ziyād ibn Kulayb at-Taymī al-Ḥanẓalī
    Muslim in his *Ṣaḥīḥ*, Abū Dāwūd in his *Sunan*, at-Tirmidhī in his *Sunan*, an-Nasā'ī in his *Sunan*
71. Zayd ibn Abī Unaysah
72. Zayd ibn Thābit aḍ-Ḍaḥḥāk al-Anṣārī the Companion ؓ
    The authors of the six books
73. Zayd ibn Khuwaylid al-Bakrī
    The authors of the six books
74. Sālim ibn ʿAjlān al-Afṭas al-Amawī
    Al-Bukhārī in his *Ṣaḥīḥ*, Abū Dāwūd in his *Sunan*, an-Nasā'ī in his *Sunan*, Ibn Mājah in his *Sunan*
75. Sālim ibn Abi'l-Jaʿd Rāfiʿ al-Ghaṭafānī al-Ashjaʿī (their *mawlā*) al-Kūfī
    The authors of the six books
76. Sālim ibn ʿAbdullāh ibn ʿUmar ibn al-Khaṭṭāb al-ʿAdawī
    The authors of the six books

77. As-Sā’ib ibn Mālik ath-Thaqafī, and some say “Ibn Yazīd”and some say “Abū Zayd”, Abū Yaḥyā, the father of ʿAṭā’
Al-Bukhārī in *al-Adab al-mufrad,* the authors of the six books apart from al-Bukhārī and Muslim
78. Sabrah ibn Maʿbad ibn ʿAwsajah al-Juhanī
Al-Bukhārī narrated from him in his *Ṣaḥīḥ* as *taʿlīq*, the authors of the six books apart from Muslim
79. Surāqah ibn Mālik
Al-Bukhārī in his *Ṣaḥīḥ,* and the other authors of the six books apart from Muslim
80. Saʿd ibn Mālik ibn Sinān ibn ʿUbayd ibn Thaʿlabah Abū Saʿīd al-Khudrī al-Anṣārī
The authors of the six books
81. Saʿd ibn Abī Waqqāṣ
The authors of the six books
82. Saʿīd ibn Jubayr ibn Hishām al-Asadī
The authors of the six books
83. Saʿīd ibn Jamīl
84. Saʿīd ibn Abī Saʿīd al-Maqburī
The authors of the six books
85. Saʿīd bin ʿUbayd aṭ-Ṭā’ī
Al-Bukhārī in his *Ṣaḥīḥ*, Muslim in his *Ṣaḥīḥ,* Abū Dāwūd in his *Sunan,* at-Tirmidhī in his *Sunan*, an-Nasā’ī in his *Sunan*
86. Saʿīd ibn Abī ʿArūbah
The authors of the six books
87. Saʿīd ibn ʿAmr ibn Saʿīd ibn al-ʿĀṣ al-Amawī
Al-Bukhārī in his *Ṣaḥīḥ*, Muslim in his *Ṣaḥīḥ,* Abū Dāwūd in his *Sunan,* an-Nasā’ī in his *Sunan*, Ibn Mājah in his *Sunan*
88. Saʿīd ibn al-Marzubān al-ʿAbsī
Al-Bukhārī in *al-Adab al-mufrad,* at-Tirmidhī in his *Sunan*, Ibn Mājah in his *Sunan*
89. Saʿīd ibn Masrūq ath-Thawrī
The authors of the six books
90. Saʿīd ibn al-Musayyab
The authors of the six books

91. Sufyān ibn Saʿīd ibn Masrūq ath-Thawrī, Abū ʿAbdullāh al-Kūfī
The authors of the six books
92. Ṣufyān ibn ʿUyaynah ibn Abī ʿImrān Maymūn al-Hilālī Abū Muḥammad al-Kūfī
The authors of the six books
93. Salāmah a black servant girl
There is one story about her in connection with Abu'd-Dardā' but she has no narrations
94. Salamah ibn Kuhayl ibn Ḥuṣayn al-Ḥaḍramī at-Tanʿī Abū Yaḥyā al-Kūfī
The authors of the six books
95. Sulaymān ibn Buraydah ibn al-Ḥuṣayb al-Aslamī al-Marwazī
The authors of the six books apart from al-Bukhārī
96. Sulaymān ibn Abī Sulaymān, whose name was Fayrūz as is the most sound position, Abū Isḥāq ash-Shaybānī (their *mawlā*) al-Kūfī
The authors of the six books
97. Sulaymān ibn Abi'l-Mughīrah al-ʿAbsī Abū ʿAbdullāh al-Kūfī
Ibn Mājah in his *Sunan*
98. Simāk ibn Ḥarb ibn Aws ibn Khālid ibn Nazzār ibn Muʿāwiyah ibn Ḥārithah adh-Dhuhlī al-Bakrī Abū Mughīrah al-Kūfī
Al-Bukhārī narrated from him in his *Ṣaḥīḥ* as *taʿlīq* ḥadīth, Muslim in his *Ṣaḥīḥ*, and the rest of the authors of the six books
99. Sawdah bint Zamʿah ibn Qays ibn ʿAbd Shams al-Qurashiyyah al-ʿĀmiriyyah
Al-Bukhārī in his *Ṣaḥīḥ*, Abū Dāwūd in his *Sunan*, an-Nasā'ī in his *Sunan*
100. Suhayl ibn Zarrāʿ Abū Zarrāʿ al-Kūfī, a shaykh from among the people of the mosque
Al-Bukhārī in *al-Adab al-mufrad*
101. Sīrīn, an *umm walad* of Ibn Masʿūd
102. Shaddād ibn ʿAbd ar-Raḥmān al-Qushayrī Abū Rūbah al-Baṣrī
103. Shurayḥ ibn al-Ḥārith ibn Qays ibn al-Jahm ibn Muʿāwiyah ibn ʿĀmir al-Kindī Abū Umayyah al-Kūfī al-Qāḍī
Al-Bukhārī in *al-Adab al-mufrad*, an-Nasā'ī in his *Sunan*

104. Shuʿbah ibn al-Ḥajjāj ibn al-Ward al-ʿAtakī al-Azdī (their *mawlā*) Abū Bisṭām, al-Wāsiṭī and then later al-Baṣrī
The authors of the six books
105. Shaqīq ibn Salamah al-Asadī Abū Wā'il al-Kūfī
The authors of the six books
106. Shaybah ibn Musāwir, but some say "Miswar", al-Baṣrī
107. Ṣafiyyah bint ʿAbd al-Muṭṭalib ibn Hāshim al-Qurashiyyah
There occurs mention of her in *al-Āthār* but there are no narrations
108. Ṣalt ibn Bahrām al-Kūfī at-Tamīmī Abū Hāshim
109. Ṣalt ibn Ḥunayn
110. Aḍ-Ḍaḥḥāk ibn Muzāḥim al-Hilālī Abu'l-Qāsim, but some say "Abū Muḥammad", al-Khurāsānī
The authors of the six books apart from al-Bukhārī and Muslim
111. Ṭāriq ibn Shihāb ibn ʿAbd Shams ibn Hilāl ibn Salamah ibn ʿAwf ibn Khaytham al-Bajalī al-Aḥmasī Abū ʿAbdullāh al-Kūfī
The authors of the six books
112. Ṭāwus ibn Kaysān al-Yamānī Abū ʿAbd ar-Raḥmān al-Ḥimyarī al-Jundī
The authors of the six books
113. Ṭarīf ibn Shihāb, but some say he was "Ibn Saʿd" and some say "Ibn Sufyān", Abū Sufyān al-Ashall
At-Tirmidhī in his *Sunan*, Ibn Mājah in his *Sunan*
114. Ṭalḥah ibn ʿUbaydullāh ibn ʿUthmān ibn ʿAmr ibn Kaʿb ibn Saʿd ibn Taym ibn Murrah al-Qurashī at-Taymī Abū Muḥammad al-Madanī
The authors of the six books
115. Ṭalḥah ibn Muṣarrif ibn ʿAmr ibn Kaʿb ibn Jaḥdab ibn Muʿāwiyah ibn Saʿd ibn al-Ḥārith al-Hamdānī al-Yāmī Abū Muḥammad but some say "Abū ʿAbdullāh" al-Kūfī
The authors of the six books
116. ʿĀṣim ibn Bahdalah (he was Abu'n-Najūd) al-Asadī (their *mawlā*) al-Kūfī Abū Bakr al-Muqrī
The authors of the six books
117. ʿĀṣim ibn Sulaymān al-Aḥwal Abū ʿAbd ar-Raḥmān al-Baṣrī the *mawlā* of Banī Tamīm but some say he was the *mawlā* of

ʿUthmān and some say of Āl Ziyād (the family of Ziyād)
The authors of the six books

118. ʿĀṣim ibn Kulayb ibn Shihāb ibn al-Maḥnūn al-Jarmī al-Kūfī
Al-Bukhārī narrated from him in his *Ṣaḥīḥ* as *taʿlīq*, and the other authors of the six books
119. ʿĀmir ibn Sharāḥīl ibn ʿAbd, but some say "ʿĀmir ibn ʿAbdullāh ibn Sharāḥīl" ash-Shaʿbī al-Ḥimyarī Abū ʿAmr al-Kūfī from one of the branches of Hamdān
The authors of the six books
120. ʿĀmir ibn ʿAbdullāh ibn al-Jarrāḥ ibn Hilāl ibn Uhayb al-Qurashī Abū ʿUbaydah ibn al-Jarrāḥ al-Fihrī
The authors of the six books
121. ʿĀmir ibn Wāthilah ibn ʿAbdullāh ibn ʿAmr ibn Jaḥsh Abu'ṭ-Ṭufayl al-Laythī
The authors of the six books
122. ʿĀ'ishah bint Abū Bakr aṣ-Ṣiddīq
The authors of the six books
123. ʿAbāyah ibn Rifāʿah ibn Rāfiʿ ibn Khadīj al-Anṣārī az-Zurqī Abū Rifāʿah al-Madanī
The authors of the six books
124. ʿAbdullāh ibn Idrīs ibn Yazīd ibn ʿAbd ar-Raḥmān ibn al-Aswad al-Awdī az-Zaʿāmizī Abū Muḥammad al-Kūfī
The authors of the six books
125. ʿAbdullāh ibn Anas an-Nakhaʿī
Ibrāhīm an-Nakhaʿī told a story about him under *īlā'* but there are no narrations from him in the *Āthār*
126. ʿAbdullāh ibn Abī Awfā ʿAlqamah ibn al-Khālid ibn al-Ḥārith ibn Abī Asīd ibn Rifāʿah ibn Thaʿlabah ibn Hawāzin ibn Aslam al-Aslamī Abū Ibrāhīm but some say "Abū Muḥammad" and some say "Abū Muʿāwiyah"
The authors of the six books
127. ʿAbdullāh ibn al-Ḥārith
Al-Bukhārī in *at-Tārīkh*
128. ʿAbdullāh ibn Abī Ḥabībah the *mawlā* of az-Zubayr ibn al-ʿAwwām
129. ʿAbdullāh ibn al-Ḥasan

130. ʿAbdullāh ibn Rawāḥah ibn Thaʿlabah ibn Imru’ al-Qays ibn ʿAmr ibn Imru’ al-Qays al-Akbar (the elder) ibn Mālik ibn Kaʿb ibn al-Khazraj ibn al-Ḥārith ibn al-Khazraj, but some people say other things about his lineage, al-Anṣārī al-Khazrajī Abū Muḥammad, but it is also said “Abū Rawāḥah” and some say “Abū ʿAmr” al-Madanī
    Al-Bukhārī in his *Ṣaḥīḥ* and in *Rafʿ al-yadayn*, Abū Dāwūd in *an-Nāsikh*, Ibn Mājah in his *Sunan*
131. ʿAbdullāh ibn Saʿīd ibn Abī Hind al-Fazārī (their *mawlā*) Abū Bakr al-Madanī
    The authors of the six books
132. ʿAbdullāh ibn Khabbāb ibn al-Aratt al-Madanī the ally of Banī Zuhrah
    At-Tirmidhī and an-Nasā’ī in their *Sunan* collections
133. ʿAbdullāh ibn Dāwūd
134. ʿAbdullāh ibn Salamah al-Murādī al-Kūfī
    The authors of the six books apart from al-Bukhārī and Muslim
135. ʿAbdullāh ibn Shaddād ibn al-Hād al-Laythī Abu’l-Walīd al-Madanī
    The authors of the six books
136. ʿAbdullāh ibn ʿAbbās ibn ʿAbd al-Muṭṭalib al-Hāshimī
    The authors of the six books
137. ʿAbdullāh ibn ʿAbd ar-Raḥmān ibn Abi’l-Ḥusayn al-Makkī an-Nawfalī
    The authors of the six books
138. ʿAbdullāh ibn ʿUtbah ibn Masʿūd al-Hudhalī Abū ʿAbdullāh, but some say “Abū ʿUbaydullāh” and others “Abū ʿAbd ar-Raḥmān” al-Madanī, but some say “al-Kūfī”
    Al-Bukhārī in his *Ṣaḥīḥ*, Muslim in his *Ṣaḥīḥ*, Abū Dāwūd in his *Sunan*, an-Nasā’ī in his *Sunan*, Ibn Mājah in his *Sunan*
139. ʿAbdullāh ibn ʿUthmān ibn ʿĀmir ibn ʿAmr ibn Kaʿb ibn Saʿd ibn Taym ibn Murrah at-Taymī Abū Bakr aṣ-Ṣiddīq ibn Abī Quḥāfah the *khalīfah* of the Messenger of Allah ﷺ
    The authors of the six books
140. ʿAbdullāh ibn ʿUthmān ibn Khuthaym al-Qārī al-Makkī Abū ʿUthmān the ally of Banī Zuhrah

Al-Bukhārī narrated from him in his *Ṣaḥīḥ* as *taʿlīq*, and the other authors of the six books

141. ʿAbdullāh ibn ʿUmar ibn al-Khaṭṭāb ibn Nufayl al-Qurashī al-ʿAdawī Abū ʿAbd ar-Raḥmān
142. ʿAbdullāh ibn ʿAmr ibn al-ʿĀṣ ibn Wā'il ibn Hishām ibn Saʿīd ibn Saʿd al-Qurashī Abū Muḥammad, but some say "Abū ʿAbd ar-Raḥmān" and others "Abū Naṣīr"
    The authors of the six books
143. ʿAbdullāh ibn ʿAwn ibn Arṭabān al-Muzanī (their *mawlā*) Abū ʿAwn al-Khazzāz al-Baṣrī
    The authors of the six books
144. ʿAbdullāh ibn al-Mubārak ibn Wāḍiḥ al-Ḥanẓalī at-Tamīmī (their *mawlā*) Abū ʿAbd ar-Raḥmān al-Marwazī
    The authors of the six books
145. ʿAbdullāh ibn Masʿūd ibn Ghāfil ibn Ḥabīb ibn Shamīkh ibn Makhzūm ibn Ṣāhilah ibn Kāhil ibn al-Ḥārith ibn Tamīm ibn Saʿd ibn Mudrikah ibn Ilyās Abū ʿAbd ar-Raḥmān al-Hudhalī
    The authors of the six books
146. ʿAbdullāh ibn Mughaffal ibn ʿAbd Nahm ibn ʿAfīf ibn Asḥam ibn Rabīʿah ibn ʿAdī ibn Thaʿlabah ibn Dhuwayb al-Muzanī Abū Saʿīd and some have said "Abū ʿAbd ar-Raḥmān"
    The authors of the six books
147. ʿAbdullāh ibn Hāni' al-Kindī al-Azdī Abu'z-Zaʿrā' al-Kabīr (the elder) al-Kūfī
    At-Tirmidhī in his *Sunan*, an-Nasā'ī in his *Sunan*
148. ʿAbdullāh ibn Yazīd
149. ʿAbd al-Aʿlā at-Taymī
150. ʿAbd ar-Raḥmān ibn Abzā al-Khuzāʿī the *mawlā* of Nāfiʿ ibn ʿAbd al-Ḥārith
    The authors of the six books
151. ʿAbd ar-Raḥmān ibn Zādhān
152. ʿAbd ar-Raḥmān ibn Sābiṭ but some say "ʿAbd ar-Raḥmān ibn ʿAbdullāh ibn ʿAbd ar-Raḥmān ibn Sābiṭ" al-Juhamī al-Makkī
    Muslim in his *Ṣaḥīḥ*, Abū Dāwūd in his *Sunan*, at-Tirmidhī in his *Sunan*, Ibn Mājah in his *Sunan*, Al-Bukhārī in *Rafʿ al-yadayn*

153. ʿAbd ar-Raḥmān ibn ʿAbdullāh ibn Masʿūd al-Hudhalī al-Kūfī
The authors of the six books

154. ʿAbd ar-Raḥmān ibn ʿAmr ibn Abī ʿAmr, whose name was Muḥammad, ash-Shāmī Abū ʿAmr al-Awzāʿī the *faqīh*
The authors of the six books

155. ʿAbd ar-Raḥmān ibn ʿAwf ibn ʿAbd ʿAwf ibn ʿAbd ibn Ḥārith ibn Kilāb ibn Murrah ibn Kaʿb ibn Lu'ayy ibn Ghālib Abū Muḥammad az-Zuhrī one of the Ten [promised the Garden]
The authors of the six books

156. ʿAbd ar-Raḥmān ibn Abī Laylā, whose name was Yasār but some say Bilāl and some say Dāwūd, ibn Balīl ibn Aḥīḥah ibn al-Jilāḥ ibn al-Ḥarīsh Jaḥjabā ibn Kalfah ibn ʿAwf ibn ʿAmr ibn ʿAwf ibn Mālik ibn Aws al-Anṣārī al-Awsī Abū ʿĪsā al-Kūfī the father of Muḥammad
The authors of the six books

157. ʿAbd al-ʿAzīz ibn Rufayʿ al-Asadī Abū ʿAbdullāh al-Makkī aṭ-Ṭā'ifī
The authors of the six books

158. ʿAbd al-Karīm ibn Abi'l-Mukhāriq, whose name [Abu'l-Mukhāriq's] was Qays but some say Ṭāriq, Abū Umayyah, the teacher, al-Baṣrī, who resided in Makkah
Al-Bukhārī narrated from him in his *Ṣaḥīḥ* as *taʿlīq* ḥadīth, Muslim in his *Ṣaḥīḥ*, Abū Dāwūd in *al-Masā'il*, at-Tirmidhī in his *Sunan*, an-Nasā'ī in his *Sunan*, Ibn Mājah in his *Sunan*

159. ʿAbd al-Majīd
In the *Āthār* he has no narrations, but there is mention of him in the chapter on "The sale of game in reed thickets, fish and bamboo"

160. ʿAbd al-Malik ibn Abī Bakr ibn ʿAbd ar-Raḥmān ibn al-Ḥārith ibn Hishām ibn al-Mughīrah ibn ʿAbdullāh ibn ʿAmr ibn Makhzūm al-Makhzūmī al-Madanī
The authors of the six books

161. ʿAbd al-Malik ibn ʿUmayr ibn Suwayd ibn Ḥārithah al-Qurashī, but some say "al-Lakhmī", Abū ʿAmr, but some say "Abū ʿAmr al-Kūfī", who was well known as al-Qibṭī (the Copt)
The authors of the six books

162. ʿUbaydullāh ibn Abī Ziyād al-Qaddāḥ Abu'l-Ḥuṣayn al-Makkī
Abū Dāwūd in his *Sunan*, at-Tirmidhī in his *Sunan*, an-Nasā'ī in his *Sunan*

163. ʿUbaydullāh (who according to Ibn Ḥajar in *al-Īthār* is probably the above mentioned al-Qaddāḥ)

164. ʿUbaydullāh ibn ʿUmar ibn Ḥafṣ ibn ʿĀṣim ibn ʿUmar ibn al-Khaṭṭāb al-ʿAdawī al-ʿUmarī al-Madanī Abū ʿUthmān one of the Seven *Fuqahā'* (of Madīnah)
The authors of the six books

165. ʿUbayd ibn Nasṭās ibn Ṣafiyyah al-ʿĀmirī al-Kūfī
Ibn Mājah in his *Sunan*

166. ʿAbīdah ibn ʿAmr, but some say "Ibn Qays", ibn ʿAmr as-Salmānī al-Murādī Abū ʿAmr al-Kūfī
The authors of the six books

167. ʿAttāb ibn Asīd ibn Abi'l-ʿĪṣ ibn Umayyah ibn ʿAbd Shams ibn ʿAbd Manāf al-Amawī Abū ʿAbd ar-Raḥmān, but some say "Abū Muḥammad", al-Makkī
The authors of the six books apart from al-Bukhārī and Muslim

168. ʿItrīs ibn ʿUrqūb ash-Shaybānī al-Kūfī
There is mention of him in the *Āthār* but no narration from him

169. ʿUthmān ibn al-Aswad ibn Mūsā ibn Bādhān al-Makkī, the *mawlā* of Banī Jumaḥ
The authors of the six books

170. ʿUthmān ibn ʿAbdullāh ibn Mawhab at-Taymī Abū ʿAbdullāh, but some say "Abū ʿAmr", al-Madanī al-Aʿribah the *mawlā* of the family of Ṭalḥah, and sometimes he is ascribed to his grandfather
Al-Bukhārī in his *Ṣaḥīḥ*, Muslim in his *Ṣaḥīḥ*, at-Tirmidhī in his *Sunan*, an-Nasā'ī in his *Sunan*, Ibn Mājah in his *Sunan*

171. ʿUthmān ibn ʿAffān ibn Abi'l-ʿĀṣ ibn Umayyah ibn ʿAbd Shams ibn ʿAbd Manāf al-Qurashī Abū ʿAmr and Abū ʿAbdullāh, but some say "Abū Laylā", Amīr al-Mu'minīn Dhu'n-Nūrayn
The authors of the six books

172. ʿUthmān ibn Muḥammad

173. ʿAdī ibn Arṭāh al-Fazārī the brother of Zayd ibn Arṭāh one of the people of Damascus
Al-Bukhārī in *al-Adab al-mufrad*

174. ʿAdī ibn Ḥātim ibn ʿAbdullāh ibn Saʿd ibn al-Ḥashraj ibn Imru' al-Qays ibn ʿAdī ibn Akhram ibn Abī Akhram ibn Rabīʿah ibn Jarwal ibn Thaʿl ibn ʿAmr ibn ʿAwf ibn Ṭayy aṭ-Ṭā'ī Abū Ṭarīf, but some say "Abū Wahb"
The authors of the six books

175. ʿIrāk ibn Mālik al-Ghifārī al-Kinānī al-Madanī
The authors of the six books

176. ʿUrwah ibn az-Zubayr ibn al-ʿAwwām ibn Khuwaylid ibn Asad ibn ʿAbd al-ʿUzzā ibn Quṣayy al-Asadī Abū ʿAbdullāh al-Madanī
The authors of the six books

177. ʿUrwah ibn al-Mughīrah ibn Shuʿbah ath-Thaqafī Abū Yaʿfūr al-Kūfī
The authors of the six books

178. ʿAṭā' ibn Abī Rabāḥ, whose name [Abū Rabāḥ's] was Aslam, al-Qurashī (their *mawlā*) Abū Muḥammad al-Makkī
The authors of the six books

179. ʿAṭā' ibn as-Sā'ib ibn Mālik, but some say "Zayd", ath-Thaqafī Abu's-Sā'ib, but some say "Abū Zayd" and some say "Abū Yazīd" and some say "Abū Muḥammad", al-Kūfī
Al-Bukhārī in *al-Adab al-mufrad*, the authors of the six books apart from al-Bukhārī and Muslim

180. ʿAṭiyyah ibn Saʿd ibn Junādah al-ʿAwfī al-Jadalī al-Qaysī al-Kūfī Abu'l-Ḥasan
Al-Bukhārī in *al-Adab al-mufrad*, Abū Dāwūd in his *Sunan*, at-Tirmidhī in his *Sunan*, Ibn Mājah in his *Sunan*

181. ʿIkrimah al-Barbarī Abū ʿAbdullāh al-Madanī, the *mawlā* of Ibn ʿAbbās
The authors of the six books

182. Al-ʿAlā' ibn Zuhayr ibn ʿAbdullāh ibn Zuhayr ibn Salīm al-Azdī al-Kūfī the brother of aṣ-Ṣaʿqab
An-Nasā'ī in his *Sunan*

183. ʿAlqamah ibn Qays ibn ʿAbdullāh ibn Mālik ibn ʿAlqamah ibn Salāmān ibn Kahl, but some say “Ibn Huhayl”, ibn Bakr ibn ʿAwf, but some say “Ibn al-Muntashir”, ibn an-Nakhaʿ al-Kūfī
     The authors of the six books
184. ʿAlqamah ibn Marthad al-Ḥaḍramī Abu’l-Ḥārith al-Kūfī
     The authors of the six books
185. ʿAlī ibn al-Aqmar ibn ʿAmr ibn al-Ḥārith ibn Muʿāwiyah ibn ʿAmr ibn al-Ḥārith ibn Rabīʿah ibn ʿAbdullāh ibn Wadāʿah al-Hamdānī al-Wadāʿī Abu’l-Wazzāʿ al-Kūfī, and some say that he is the brother of Kulthūm ibn al-Aqmar
     The authors of the six books
186. ʿAlī bin Rabīʿah ibn Naḍlah al-Wālibī al-Asadī, but some say “al-Bajalī”, Abu’l-Mughīrah al-Kūfī
     The authors of the six books
187. ʿAlī ibn Abī Ṭālib ibn ʿAbd al-Muṭṭalib ibn Hāshim ibn ʿAbd Manāf Abu’l-Ḥasan al-Hāshimī Amīr al-Mu’minīn
     The authors of the six books
188. ʿUmārah or ʿAmmār or Abū ʿAmmār
     Ibn Ḥajar says that the doubt in the name is from Muḥammad ibn al-Ḥasan ash-Shaybānī; the name of the narrator is ʿAmmār, and his *kunyah* is Abū ʿUmārah.
189. ʿUmar ibn al-Khaṭṭāb ibn Nufayl ibn ʿAbd al-ʿUzzā ibn Riyāḥ ibn ʿAbdullāh ibn Qurṭ ibn Razāḥ ibn ʿAdī ibn Kaʿb ibn Lu’ayy ibn Ghālib al-Qurashī al-ʿAdawī Abū Ḥafṣ Amīr al-Mu’minīn
     The authors of the six books
190. ʿUmar ibn Dharr ibn ʿAbdullāh ibn Zurārah al-Hamdānī al-Murhibī Abū Dharr al-Kūfī
     Al-Bukhārī in his *Ṣaḥīḥ*, Abū Dāwūd in his *Sunan*, at-Tirmidhī in his *Sunan*, an-Nasā’ī in his *Sunan*, Ibn Mājah in his *Sunan*
191. ʿAmr ibn Jubayr
192. ʿAmr ibn al-Ḥārith ibn Abī Ḍirār ibn Ḥabīb ibn ʿĀ’idh ibn Mālik ibn Khuzaymah, who is al-Muṣṭaliq ibn al-Kaʿb ibn ʿAmr, who is Khuzāʿah al-Khuzāʿī al-Muṣṭaliqī the brother of Juwayriyah the wife of the Prophet ﷺ
     The authors of the six books

193. ʿAmr ibn Dīnār al-Baṣrī Abū Yaḥyā al-Aʿwar Qahramān Āl (the family of) az-Zubayr ibn Shuʿayb al-Baṣrī
At-Tirmidhī in his *Sunan*, Ibn Mājah in his *Sunan*
194. ʿAmr ibn Salamah ibn al-Ḥārith al-Hamdānī, but some say "al-Kindī", al-Kūfī
Al-Bukhārī in *al-Adab al-mufrad*
195. ʿAmr ibn ʿAbdullāh ibn ʿUbayd, but some say "ʿAlī" and some say "Ibn Abī Shaʿīrah", Abū Isḥāq as-Sabīʿī al-Kūfī
The authors of the six books
196. ʿAmr ibn Murrah ibn ʿAbdullāh ibn Ṭāriq ibn al-Ḥārith ibn Salamah ibn Kaʿb ibn Wā'il ibn Jamal ibn Kinānah ibn Nājiyah ibn Murād al-Jamakī al-Murādī Abū ʿAbdullāh al-Kūfī al-Aʿmā (blind)
The authors of the six books
197. ʿAmr ibn Maymūn al-Awdī Abū ʿAbdullāh, but some say "Abū Yaḥyā", al-Kūfī
The authors of the six books
198. ʿImrān ibn Ḥuṣayn ibn ʿUbayd ibn Khalf ibn ʿAbd Nahm ibn Sālim ibn Ghāḍirah ibn Salūl ibn Ḥabashah ibn Salūl ibn Kaʿb ibn ʿAmr al-Khuzāʿī Abū Najīd
The authors of the six books
199. ʿImrān ibn ʿUmayr al-Masʿūdī al-Kūfī
Aḥmad
200. ʿUmayr ibn Saʿīd an-Nakhaʿī aṣ-Ṣuhbānī Abū Yaḥyā al-Kūfī
Al-Bukhārī in his *Ṣaḥīḥ*, Muslim in his *Ṣaḥīḥ*, an-Nasā'ī in *Musnad ʿAlī*, Abū Dāwūd in his *Sunan*, Ibn Mājah in his *Sunan*
201. ʿUmayr the father of ʿImrān and the *mawlā* of ʿAbdullāh ibn Masʿūd
202. ʿAwf ibn Mālik ibn Naḍlah al-Jushamī Abu'l-Aḥwaṣ, al-Kūfī of Banī Jusham, ibn Muʿāwiyah ibn Bakr ibn Hawāzin
Al-Bukhārī in *al-Adab al-mufrad*, the authors of the six books apart from al-Bukhārī
203. ʿAwn ibn ʿAbdullāh ibn ʿUtbah ibn Masʿūd al-Hudhalī Abū ʿAbdullāh al-Kūfī the *zāhid*
The authors of the six books apart from al-Bukhārī
204. ʿĪsā ibn ʿAbdullāh ibn Mawhab

205. Ghaylān ibn Jāmiʿ ibn Ashʿath al-Muḥāribī Abū ʿAbdullāh al-Kūfī and the *qāḍī* of Kūfa
Muslim in his *Ṣaḥīḥ*, Abū Dāwūd in his *Sunan*, an-Nasā'ī in his *Sunan*, Ibn Mājah in his *Sunan*
206. Al-Qāsim ibn ʿAbd ar-Raḥmān ibn ʿAbdullāh ibn Masʿūd al-Masʿūdī Abū ʿAbd ar-Raḥmān al-Kūfī the *qāḍī*
The authors of the six books apart from Muslim
207. Al-Qāsim ibn ʿAbd ar-Raḥmān ash-Shāmī Abū ʿAbd ar-Raḥmān ad-Dimashqī the *mawlā* of the family of Ubayy ibn Ḥarb al-Amawī
Al-Bukhārī in *al-Adab al-mufrad*, the authors of the six books apart from al-Bukhārī and Muslim
208. Qatādah ibn Diʿāmah ibn Qatādah ibn ʿAzīz ibn ʿAmr ibn Rabīʿah ibn ʿAmr ibn al-Ḥārith ibn Sadūs Abu'l-Khaṭṭāb ad-Sadūsī al-Baṣrī
The authors of the six books
209. Qazaʿah ibn Yaḥyā, but some say "Ibn al-Aswad", Abu Ghādiyah al-Baṣrī, the *mawlā* of Ziyād ibn Abī Sufyān but it is also said that he was the *mawlā* of ʿAbd al-Malik and some said he was from Banī al-Ḥarīsh
The authors of the six books
210. Qays ibn Muslim al-Jadalī al-ʿAdwānī Abū ʿAmr al-Kūfī of Qays ʿIjlān
The authors of the six books
211. Kathīr ibn Jamhān as-Sulamī, but some say "al-Aslamī", Abū Jaʿfar al-Kūfī
The authors of the six books apart from al-Bukhārī and Muslim
212. Kathīr al-Aṣamm ar-Rammāḥ is Ibn ʿAbdullāh ibn Aslam al-Kūfī
213. Kidām ibn ʿAbd ar-Raḥmān as-Sulamī
At-Tirmidhī in his *Sunan*
214. Kaʿb ibn Mālik ibn Abī Kaʿb, whose name [Abū Kaʿb's] was ʿAmr, ibn al-Qayn ibn Kaʿb ibn Suwār ibn Ghanam ibn Kaʿb ibn Salamah al-Anṣārī as-Sulamī, Abū ʿAbdullāh, but some say "Abū ʿAbd ar-Raḥmān" and some say "Abū Muḥammad" and

some “Abū Bashīr”, al-Madanī. The poet.
The authors of the six books

215. Layth ibn Abī Sulaym ibn Zunaym al-Qurashī Abū Bakr, but some say “Abū Bukayr”, al-Kūfī, the *mawlā* of ʿUtbah ibn Sufyān.
Al-Bukhārī narrated from him in his *Ṣaḥīḥ* as *taʿlīq*, the authors of the rest of the six books
216. Mālik ibn Anas ibn Mālik ibn Abī ʿĀmir ibn ʿAmr ibn al-Ḥārith ibn ʿUthmān ibn Jathīl ibn ʿAmr ibn al-Ḥārith, and he was Dhū Aṣbaḥ al-Aṣbaḥī al-Ḥimyarī, Abū ʿAbdullāh al-Madani the *faqīh*, one of the notables of Islam, the Imām of the Abode of the Hijrah
The authors of the six books
217. Mālik ibn Zabīd al-Hamdānī al-Kūfī
Al-Bukhārī in *al-Adab al-mufrad*
218. Mālik ibn Mighwal ibn ʿĀṣim ibn Ghaziyah ibn Ḥārithah ibn Khadīj ibn Bajīlah al-Bajalī Abū ʿAbdullāh al-Kūfī
The authors of the six books
219. Al-Mubārak ibn Faḍālah ibn Abī Umayyah Abū Faḍālah al-Baṣrī the *mawlā* of Zayd ibn al-Khaṭṭāb
Al-Bukhārī narrated from him in his *Ṣaḥīḥ* as *taʿlīq* ḥadīth, Abū Dāwūd in his *Sunan*, at-Tirmidhī in his *Sunan*, Ibn Mājah in his *Sunan*
220. Mujālid ibn Saʿīd ibn ʿUmayr ibn Bisṭām ibn Dhī Marwān ibn Shuraḥbīl ibn Rabīʿah ibn Marthad ibn Jusham al-Hamdānī Abū ʿAmr, but some say “Abū Saʿīd”, al-Kūfī
The authors of the six books apart from al-Bukhārī
221. Mujāhid ibn Jabr al-Makkī Abu’l-Ḥajjāj al-Makhzūmī al-Muqrī (the *mawlā* of as-Sā’ib ibn Abi’s-Sā’ib)
The authors of the six books
222. Muḥārib ibn Dithār or al-Ḥārith ibn Ziyād
223. Muḥammad ibn al-Ḥasan ash-Shaybānī
224. Muḥammad ibn az-Zubayr at-Tamīmī al-Ḥanẓalī al-Baṣrī
Abū Dāwūd in his *Marāsīl*, an-Nasā’ī in his *Sunan*
225. Muḥammad ibn Sūqah al-Ghanawī Abū Bakr al-Kūfī al-ʿĀbid (the devotee)

The authors of the six books

226. Muḥammad ibn ʿUbaydullāh
227. Muḥammad ibn ʿAlī ibn Abī Ṭālib al-Hāshimī Abu'l-Qāsim al-Madanī, better known as Ibn al-Ḥanafīyyah
     The authors of the six books
228. Muḥammad ibn ʿAlī ibn al-Ḥusayn ibn ʿAlī ibn Abī Ṭālib al-Hāshimī Abū Jaʿfar al-Bāqir
     The authors of the six books
229. Muḥammad ibn ʿAmr ibn al-Ḥārith ibn Abī Ḍirār
230. Muḥammad ibn Qays al-Hamdānī and then al-Murhibī
     An-Nasā'ī in *Musnad ʿAlī*
231. Muḥammad ibn Kaʿb ibn Salīm ibn Asad al-Quraẓī Abū Ḥamzah, but some say "Abū ʿAbdullāh", one of the allies of Aws
     The authors of the six books
232. Muḥammad ibn Mālik ibn Zubayd al-Hamdānī al-Kūfī
233. Muḥammad ibn Muslim ibn Tadrus al-Asadī (their *mawlā*) Abu'z-Zubayr al-Makkī
     The authors of the six books
234. Muḥammad ibn Muslim ibn ʿUbaydullāh ibn ʿAbdullāh ibn Shihāb ibn ʿAbdullāh ibn al-Ḥārith ibn Zuhrah al-Qurashī az-Zuhrī the *faqīh* Abū Bakr the Ḥāfiẓ and man of knowledge of the Ḥijāz
     The authors of the six books
235. Muḥammad ibn al-Muntashir ibn al-Ajdaʿ ibn Mālik al-Hamdānī and then al-Wadāʿī
     The authors of the six books
236. Muḥammad ibn al-Munkadir ibn ʿAbdullāh ibn al-Hudayr ibn ʿAbd al-ʿUzzā ibn ʿĀmir ibn al-Ḥārith ibn Ḥārithah at-Taymī Abū ʿAbdullāh, one of the noted Imāms
     The authors of the six books
237. Marzūq ibn Abi'l-Hudhayl ath-Thaqafī Abū Bakr ad-Dimashqī
     Abū Dāwūd in *an-Nāsikh*, Ibn Mājah in his *Sunan*
238. Marwān ibn al-Ḥakam ibn Abi'l-ʿĀṣ ibn Umayyah ibn ʿAbd Shams ibn ʿAbd Manāf ibn Quṣayy al-Amawī Abū ʿAbd al-

Malik
The authors of the six books apart from Muslim

239. Muzāḥim ibn Zufar at-Taymī Abū Khuzaymah al-Kūfī from Taym ar-Rabāb
240. Masrūq ibn al-Ajdaʿ ibn Mālik ibn Umayyah ibn ʿAbdullāh ibn Murrah al-Hamdānī al-Wadāʿī al-Kūfī al-ʿĀbid (the devotee), Abū ʿĀ'ishah the *faqīh*
The authors of the six books
241. Misʿar ibn Kidām ibn Ẓahīr ibn ʿUbaydah ibn al-Ḥārith ibn Hilāl al-Hilālī al-ʿĀmirī ar-Ruwāsī al-Kūfī Abū Salamah, one of the noted figures
The authors of the six books
242. Al–Masʿūd ibn Mālik Abū Razīn al-Asadī (Asad of Khuzaymah), the *mawlā* of Abū Wā'il, al-Kūfī
Al-Bukhārī in *al-Adab al-mufrad*, the other authors of the six books
243. Muslim ibn Sālim an-Nahdī Abū Farwah al-Aṣghar (the younger or lesser) al-Kūfī and he is better known as al-Juhanī because of his residing among them
Al-Bukhārī in his *Ṣaḥīḥ*, Muslim in his *Ṣaḥīḥ*, Abū Dāwūd in his *Sunan*, an-Nasā'ī in his *Sunan*, Ibn Mājah in his *Sunan*
244. Muslim ibn Ṣubayḥ al-Hamdānī (their *mawlā*) Abu'ḍ-Ḍuḥā al-Kūfī al-ʿAṭṭār
The authors of the six books
245. Muslim ibn ʿAbdullāh Abu'n-Naṣr ash-Shāmī
246. Muslim ibn Kaysān aḍ-Ḍabbī al-Mulā'ī al-Barrād Abū ʿAbdullāh al-Kūfī al-Aʿwar
At-Tirmidhī in his *Sunan*, Ibn Mājah in his *Sunan*
247. Al-Miswar ibn Makhramah ibn Nawfal ibn Uhayb az-Zuhrī
The authors of the six books
248. Muṣʿab ibn Saʿd ibn Abī Waqqāṣ az-Zuhrī Abū Zurārah al-Madanī
The authors of the six books
249. Muʿādh ibn Jabal ibn ʿAmr ibn Aws al-Anṣārī al-Khazrajī Abū ʿAbd ar-Raḥmān al-Madanī
The authors of the six books

250. Muʿāwiyah ibn Isḥāq ibn Ṭalḥah ibn ʿUbaydullāh at-Taymī Abu'l-Azhar al-Kūfī
Al-Bukhārī in his *Ṣaḥīḥ*, Abū Dāwūd in *al-Qadr*, an-Nasā'ī in his *Sunan*, Ibn Mājah in his *Sunan*
251. Maʿbad ibn Ṣubayḥ al-Qurashī at-Taymi
252. Maʿqil ibn Sinān ibn Muṭahhar ibn ʿArakī ibn Futyān ibn Sabʿ ibn Bakr ibn Ashjaʿ al-Ashjaʿī Abū Muḥammad
The authors of the six books apart from al-Bukhārī and Muslim
253. Maʿqil ibn Muqarrin al-Muzanī Abū ʿAmrah
254. Maʿmar ibn Rāshid al-Azdī al-Ḥarrānī (their *mawlā*) Abū ʿUrwah ibn Abī ʿAmr al-Baṣrī
The authors of the six books
255. Maʿn ibn ʿAbd ar-Raḥmān ibn ʿAbdullāh ibn Masʿūd al-Hudhalī al-Masʿūdī al-Kūfī Abu'l-Qāsim the father of al-Qāsim the *qāḍī*
Al-Bukhārī in his *Ṣaḥīḥ*, Muslim in his *Ṣaḥīḥ*
256. Al-Mughīrah ibn Shuʿbah ibn Abī ʿĀmir ibn Masʿūd ibn Muʿattib ath-Thaqafī Abū ʿĪsā but some have said "Abū Muḥammad"
The authors of the six books
257. Al-Mughīrah ibn Miqsam aḍ-Ḍabbī (their *mawlā*) Abū Hishām al-Kūfī, (he was blind), the *faqīh*
The authors of the six books
258. Makḥūl ash-Shāmī Abū ʿAbdullāh, but some say "Abū Ayyūb" and others "Abū Muslim", the Damascene *faqīh*
Al-Bukhārī in *Juz' al-qirā'ah,* the authors of the six books apart from al-Bukhārī
260. Al-Mundhir ibn Abī Ḥimṣah
259. Al-Mundhir ibn Mālik ibn Quṭaʿah Abū Naḍrah al-ʿAbdī and then al-ʿAwfī al-Baṣrī
Al-Bukhārī narrated from him in his *Ṣaḥīḥ* as *taʿlīq* ḥadīth, Muslim in his *Ṣaḥīḥ*, the other authors of the six books
260. Manṣūr ibn Zādhān al-Wāsiṭī Abu'l-Mughīrah ath-Thaqafī (their *mawlā*)
The authors of the six books
261. Manṣūr ibn al-Muʿtamir ibn ʿAbdullāh ibn Rabīʿah, but some say "al-Muʿtamir", ibn ʿAttāb ibn Farqad as-Sulamī Abū ʿAttāb

al-Kūfī
The authors of the six books

262. Mūsā ibn Abī ʿĀ’ishah al-Makhzūmī al-Hamdānī Abu’l-Ḥasan al-Kūfī the *mawlā* of the family of Jaʿdah ibn Hubayrah
     The authors of the six books
263. Mūsā ibn Muslim al-Ḥazzāmī, but some say “ash-Shaybānī”, Abū ʿĪsā al-Kūfī aṭ-Ṭaḥḥān and better known as Mūsā aṣ-Ṣaghīr
     Abū Dāwūd in his *Sunan*, Abū Dāwūd in *Faḍā’il al-Anṣār*, Ibn Mājah in his *Sunan*
264. Maymūnah bint al-Ḥārith, the wife of the Prophet ﷺ, al-ʿĀmiriyyah al-Hilāliyyah
     The authors of the six books
265. Maymūn ibn Sayyāh al-Baṣrī whose *kunyah* was Abū Baḥr
     Al-Bukhārī in his *Ṣaḥīḥ*, an-Nasā’ī in his *Sunan*
266. Nāṣiḥ ibn ʿAbdullāh, but some say “ibn ʿAbd ar-Raḥmān”, at-Taymī al-Muḥallimī Abū ʿAbdullāh al-Ḥā’ik al-Kūfī
     At-Tirmidhī in his *Sunan*, Ibn Mājah in his *Sunan*
267. Nāfiʿ the *faqīh*, the *mawlā* of Ibn ʿUmar, Abū ʿAbdullāh al-Madanī
     The authors of the six books
268. An-Nuʿmān ibn Thābit better known as Abū Ḥanīfah the Imām, al-Kūfī, and *mawlā* (by alliance) of Banī Taymullāh ibn Thaʿlabah
     At-Tirmidhī in his *Sunan*, an-Nasā’ī in his *Sunan*
269. Hishām ibn ʿĀ’idh ibn Naṣīb al-Asadī
     An-Nasā’ī in his *Sunan*
270. Hishām ibn ʿUrwah ibn az-Zubayr ibn al-ʿAwwām al-Asadī Abu’l-Mundhir, but some have said “Abū ʿAbdullāh”
     The authors of the six books
271. Hishām ibn Hubayrah ibn Faḍālah al-Laythī the *qāḍī* of Baṣra and one of the *ʿulamā’* of legislation
     There is mention of him in the *Āthār* but no narrations
272. Al-Haytham ibn Bārid aḍ-Ḍabbī
273. Al-Haytham ibn Ḥabīb who is al-Haytham ibn Abi’l-Haytham aṣ-Ṣayrafī al-Kūfī, the brother of ʿAbd al-Khāliq ibn Ḥabīb
     Abū Dāwūd in his *Marāsīl*

274. Wāthilah ibn al-Asqaʿ ibn Kaʿb ibn ʿĀmir ibn Layth ibn ʿAbd Manāt Abu'l-Asqaʿ
The authors of the six books
275. Wāṣil ibn Abī Jamīl ash-Shāmī Abū Bakr as-Salāmānī
Abū Dāwūd in his *Marāsīl*
276. Wāqid ibn ʿAbdullāh
Abū Dāwūd in his *Sunan*
277. Al-Walīd ibn Sarīʿ al-Kūfī the *mawlā* of the family of ʿAmr ibn Ḥarīsh
Muslim in his *Ṣaḥīḥ*, an-Nasā'ī in his *Sunan*
278. Al-Walīd ibn ʿUthmān
279. Al-Walīd ibn ʿUqbah ibn Abī Muʿayṭ ibn Abī ʿAmr ibn Umayyah ibn ʿAbd Shams ibn ʿAbd Manāf al-Qurashī, and he is the brother of ʿUthmān by the same mother
Abū Dāwūd in his *Sunan*
280. Wahb ibn Kaysān al-Qurashī, the *mawlā* of the family of az-Zubayr, Abū Nuʿaym al-Madanī the Makkan teacher
281. Yaḥyā ibn ʿĀmir
282. Yaḥyā ibn ʿAbdullāh ibn al-Ḥārith al-Jābir, but some say "al-Mujabbir", at-Taymī al-Bakrī (their *mawlā*) Abu'l-Ḥārith al-Kūfī
Abū Dāwūd in his *Sunan*, at-Tirmidhī in his *Sunan*, Ibn Mājah in his *Sunan*
283. Yaḥyā ibn ʿAmr ibn Salamah al-Hamdānī
284. Yaḥyā ibn Abī Kathīr aṭ-Ṭā'ī (their *mawlā*) Abū Naṣr al-Yamāmī and his father's name was Ṣāliḥ ibn al-Mutawakkil, but some have said "Yasār" and some "Nashīṭ" and some "Dīnār".
The authors of the six books
285. Yaḥyā ibn Yaʿmur al-Baṣrī Abū Sulaymān, but some said "Abū Saʿīd" and others "Abū ʿAdī", al-Qaysī al-Jadalī. He was a *qāḍī*
The authors of the six books
286. Yazīd ibn Ṣuhayb Abū ʿUthmān al-Kūfī better known as "al-Faqīr"
Al-Bukhārī in his *Ṣaḥīḥ*, Muslim in his *Ṣaḥīḥ*, Abū Dāwūd in his *Sunan*, an-Nasā'ī in his *Sunan*, Ibn Mājah in his *Sunan*

287. Yazīd ibn ʿAbd ar-Raḥmān
288. Yazīd ibn Abī Kabshah as-Saksakī ad-Dimashqī from the family of the house of Lahyā
Al-Bukhārī in his *Ṣaḥīḥ*
289. Yazīd ibn al-Mukaffif
290. Yazīd (no ascription of lineage)
291. Yaʿqūb ibn al-Qaʿqāʿ ibn al-Aʿlam al-Azdī Abu'l-Ḥasan al-Khurāsānī the *qāḍī* of Merv the son of the paternal aunt of al-Qāsim ibn Faḍl al-Ḥaddānī
Abū Dāwūd in his *Sunan*, an-Nasā'ī in his *Sunan*
292. Yūsuf ibn Māhik ibn Mihrān al-Fārisī al-Makkī, the *mawlā* of Quraysh, and the truth is that he is not Yūsuf ibn Mihrān
The authors of the six books
293. Yūnus
The authors of the six books apart from al-Bukhārī

KUNYAH NAMES

1. Abū Ibrāhīm is ʿAbdullāh ibn Abī Awfā the aforementioned Companion
2. Abu'l-Aḥwaṣ is the aforementioned ʿAwf ibn Mālik al-Jushamī.
3. Abu'l-Azhar is the aforementioned Muʿāwiyah ibn Isḥāq al-Kūfī.
4. Abū Isḥāq al-Baṣrī is the aforementioned Ismāʿīl ibn Muslim al-Makkī.
5. Abū Isḥāq as-Sabīʿī is the aforementioned ʿAmr ibn ʿAbdullāh.
6. Abū Isḥāq ash-Shaybānī is the aforementioned Sulaymān ibn Abī Sulaymān.
7. Abū Isḥāq al-Kūfī is the aforementioned Ibrāhīm ibn Muslim.
8. Abu'l-Asqaʿ is the aforementioned Wāthilah ibn al-Asqaʿ.
9. Abū Ismāʿīl al-Makkī is the aforementioned Ibrāhīm ibn Yazīd al-Khawzī.
10. Abu'l-Aswad ad-Di'lī, but some say "ad-Du'alī", al-Baṣrī the *qāḍī* whose name was Ẓālim ibn ʿAmr ibn Sufyān ibn Jandal ibn Yaʿmur ibn Ḥansh ibn Thaʿlabah ibn ʿAdī ad-Dīl. Some say that his name was "ʿAmr ibn ʿUthmān" and some say

"ʿUthmān ibn ʿAmr"
The authors of the six books.

11. Abū Umayyah al-Kūfī is the aforementioned Shurayḥ ibn al-Ḥārith the *qāḍī*.
12. Abū Bisṭām al-Baṣrī is the aforementioned Shuʿbah ibn al-Ḥajjāj.
13. Abū Bakr al-Baṣrī is the aforementioned Layth ibn Abī Salīm
14. Abū Bakr al-Baṣrī is the aforementioned Wāṣil ibn Abī Jamīl.
15. Abū Bakr al-Baṣrī is the aforementioned Muḥammad ibn Sūqah.
16. Abū Bakr al-Baṣrī is the aforementioned Ayyūb as-Sakhtiyānī.
17. Abū Bakr aṣ-Ṣiddīq is the aforementioned ʿAbdullāh ibn ʿUthmān.
18. Abū Bakr ad-Dimashqī is the aforementioned Marzūq ibn Abī Hudhayl.
19. Abū Bakr al-Muqrī is the aforementioned ʿĀṣim ibn Bahdalah.
20. Abū Bakr al-Madanī is the aforementioned ʿAbdullāh ibn Saʿīd.
21. Abū Bakr ibn ʿAbdullāh ibn Abī Jahm al-ʿAdawī
    Muslim in his *Ṣaḥīḥ*, at-Tirmidhī in his *Sunan*, an-Nasāʾī in his *Sunan*, Ibn Mājah in his *Sunan*
22. Abū Bakr occurs in the *Āthār* in the chapter on the *zakāh* of gold and silver.
23. Abū Bakr ath-Thaqafī is Nufayʿ ibn al-Ḥārith ibn Kaldah ibn ʿAmr ibn ʿIlāj ibn Abī Salamah
    The authors of the six books
24. Abū Thaʿlabah al-Khushanī
    The authors of the six books
25. Abū Thawr
26. Abū Jabalah
27. Abū Jaʿfar is the aforementioned Muḥammad ibn ʿAlī ibn al-Ḥasan al-Bāqir.
28. Abu'l-Ḥārith is the aforementioned ʿAlqamah ibn Marthad
29. Abū Ḥāḍir
30. Umm Ḥabībah is Ramlah bint Abī Sufyān Ṣakhr ibn Ḥarb ibn Umayyah al-Amawī
    The authors of the six books

31. Abu’l-Ḥajjāj is the aforementioned Mujāhid ibn Jabr.
32. Abū Ḥujayyah is the aforementioned Ajlaḥ ibn ʿAbdullāh al-Kindī.
33. Abu’l-Ḥasan is the aforementioned ʿAṭiyyah ibn Saʿd
34. Abu’l-Ḥasan is the aforementioned Mūsā ibn Abī ʿĀ’ishah.
35. Abu’l-Ḥasan al-Hāshimī is the aforementioned ʿAlī ibn Abī Ṭālib the Companion.
36. Abu’l-Ḥusayn
37. Abū Ḥuṣayn is the aforementioned ʿUbaydullāh ibn Abī Ziyād al-Qaddāḥ.
38. Abū Ḥuṣayn is the aforementioned ʿUthmān ibn ʿĀṣim.
39. Abū Ḥafṣ is the aforementioned ʿUmar ibn al-Khaṭṭāb the Companion.
40. Abū Ḥamzah is the aforementioned Anas ibn Mālik the Companion.
41. Abū Ḥamzah is the aforementioned Muḥammad ibn Kaʿb.
42. Abū Ḥanīfah is the aforementioned Nuʿmān ibn Thābit, the Imām.
43. Abū Khuthaym. The Ḥāfiẓ said in the *Īthār*, “Thus it is in the written text, but the correct position is that he is Ibn Khuthaym”. He is the aforementioned ʿAbdullāh ibn ʿUthmān ibn Khuthaym.
44. Abū Khuzaymah is the aforementioned Mazāḥim ibn Zufar.
45. Abu’l-Khaṭṭāb is the aforementioned Qatādah ibn Diʿāmah.
46. Abu’d-Dardā’ the magnificent Companion.
    The authors of the six books
47. Abū Dharr al-Ghifārī the magnificent Companion.
    The authors of the six books
48. Abū Dharr al-Kūfī is the aforementioned ʿUmar ibn Dharr al-Hamdānī.
49. Abū Razīn is the aforementioned Masʿūd ibn Mālik.
50. Abū Rifāʿah al-Madanī is the aforementioned ʿIbāyah ibn Rifāʿah.
51. Abu’z-Zubayr al-Makkī is the aforementioned Muḥammad ibn Muslim ibn Tadrus al-Makkī.
52. Abū Zurārah is the aforementioned Muṣʿab ibn Saʿd.

53. Abū Zarrāᶜ is the aforementioned Suhayl ibn Dharrāᶜ which is correctly spelt with a *dhāl*.
54. Abū Zurᶜah ibn ᶜAmr ibn Jarīr ibn ᶜAbdullāh al-Bajalī al-Kūfī
    The authors of the six books
55. Abu'z-Zaᶜrā' is the aforementioned ᶜAbdullāh ibn Hānī.
56. Abu's-Sā'ib is the aforementioned ᶜAṭā' ibn as-Sā'ib.
57. Abū Saᶜd al-Baqqāl is the aforementioned Saᶜīd ibn al-Marzubān.
58. Abū Saᶜīd al-Khudrī is the aforementioned Saᶜd ibn Mālik the magnificent Companion.
59. Abū Saᶜīd is the aforementioned ᶜAbdullāh ibn Mughaffal.
60. Abū Sufyān is the aforementioned Ṭarīf ibn Shihāb.
61. Abū Sufyān who occurs in the chapter on supererogatory prayers in the *Āthār*
    The authors of the six books
62. Abū Salamah
63. Abū Salamah ibn ᶜAbd ar-Raḥmān ibn ᶜAwf az-Zuhrī al-Madanī.
    The authors of the six books
64. Abū Salamah is the aforementioned Misᶜar ibn Kidām.
65. Umm Sulaym bint Milḥān the sister of Umm Ḥarām al-Anṣāriyyah
    Al-Bukhārī in his *Ṣaḥīḥ*, Muslim in his *Ṣaḥīḥ*, Abū Dāwūd in his *Sunan*, at-Tirmidhī in his *Sunan*, an-Nasā'ī in his *Sunan*
66. Abu's-Sawwār as-Sulamī
67. Abū Shabīl an-Nakhaᶜī is the aforementioned ᶜAlqamah ibn Qays.
68. Abu'sh-Shaᶜthā' is the aforementioned Jābir ibn Zayd.
69. Abu'sh-Shaᶜthā' al-Muḥāribī is Salīm ibn Aswad ibn Ḥanẓalah al-Muḥāribī al-Kūfī
    The authors of the six books
70. Abū Ṣakhrah al-Muḥāribī is the aforementioned Jāmiᶜ ibn Shaddād.
71. Abu'ḍ-Ḍuḥā is the aforementioned Muslim ibn Ṣubayḥ
72. Abū Ṭarīf is the aforementioned ᶜAdī ibn Ḥātim
73. Abū ᶜĀmir ath-Thaqafī

74. Abū ʿĀ’ishah the *faqīh* is the aforementioned Masrūq ibn al-Ajdaʿ
75. Abū ʿAbdullāh is the aforementioned ʿAbdullāh ibn ʿUtbah ibn Masʿūd
76. Abū ʿAbdullāh is the aforementioned ʿAbd al-ʿAzīz ibn Rufayʿ
77. Abū ʿAbdullāh is the aforementioned ʿUthmān ibn ʿAbdullāh at-Taymī
78. Abū ʿAbdullāh is the aforementioned ʿIkrimah the *mawlā* of Ibn ʿAbbās
79. Abū ʿAbdullāh is the aforementioned ʿAmr ibn Maymūn al-Awdī
80. Abū ʿAbdullāh is the aforementioned ʿAwn ibn ʿAbdullāh
81. Abū ʿAbdullāh is the aforementioned Kaʿb ibn Mālik
82. Abū ʿAbdullāh is the aforementioned Mālik ibn Anas
83. Abū ʿAbdullāh is the aforementioned Muḥammad ibn al-Munkadir
84. Abū ʿAbdullāh is the aforementioned Muslim ibn Kaysān
85. Abū ʿAbdullāh is the aforementioned Nāṣiḥ ibn ʿAbdullāh
86. Abū ʿAbdullāh is the aforementioned Nāfiʿ the *mawlā* of Ibn ʿUmar
87. Abū ʿAbdullāh al-Kūfī is the aforementioned Sufyān ath-Thawrī
88. Abū ʿAbdullāh al-Kūfī is the aforementioned Sulaymān ibn Abi’l-Mughīrah
89. Abū ʿAbdullāh al-Kūfī is the aforementioned Ṭāriq ibn Shihāb
90. Abū ʿAbdullāh al-Kūfī is the aforementioned ʿAmr ibn Murrah
91. Abū ʿAbdullāh al-Kūfī is the aforementioned Ghaylān ibn Jāmiʿ
92. Abū ʿAbdullāh al-Kūfī is the aforementioned Mālik ibn Mighwal
93. Abū ʿAbd ar-Raḥmān is the aforementioned ʿAbdullāh ibn Masʿūd the Companion
94. Abū ʿAbd ar-Raḥmān is the aforementioned ʿAttāb ibn Asīd
95. Abū ʿAbd ar-Raḥmān is the aforementioned Muʿādh ibn Jabal the Companion
96. Abū ʿAbd ar-Raḥmān al-Baṣrī is the aforementioned ʿĀṣim ibn Sulaymān al-Aḥwal

97. Abū ʿAbd ar-Raḥmān al-Ḥimyarī is the aforementioned Ṭāwus ibn Kaysān
98. Abū ʿAbd ar-Raḥmān ad-Dimashqī is the aforementioned al-Qāsim ibn ʿAbd ar-Raḥmān ad-Dimashqī
99. Abū ʿAbd ar-Raḥmān al-Marwazī is the aforementioned ʿAbdullāh ibn al-Mubārak
100. Abū ʿAbd ar-Raḥmān al-Makkī is the aforementioned ʿUmar ibn al-Khaṭṭāb the Companion
101. Abū ʿAbd al-Malik is the aforementioned Marwān ibn al-Ḥakam
102. Abū ʿAbd al-Malik al-Makkī is the aforementioned Ismāʿīl ibn ʿAbd al-Malik
103. Abū ʿAbd al-Aʿlā at-Taymī has been previously mentioned under his son ʿAbd al-Aʿlā
104. Abū ʿUbaydah ibn al-Jarrāḥ is the aforementioned ʿĀmir ibn ʿAbdullāh ibn al-Jarrāḥ the Companion
105. Abū ʿUbaydah is ʿĀmir ibn ʿAbdullāh ibn Masʿud al-Hudhalī al-Kūfī
     The authors of the six books
106. Abū ʿAttāb is the aforementioned Manṣūr ibn al-Muʿtamir
107. Abū ʿUthmān is the aforementioned ʿAbdullāh ibn ʿUthmān ibn Khuthaym
108. Abū ʿUthmān is the aforementioned ʿAbdullāh ibn ʿUmar
109. Abū ʿUrwah is the aforementioned Maʿmar ibn Rāshid
110. Abu'l-ʿAṭūf is the aforementioned Jarrāḥ ibn Minhāl
111. Abū ʿAlī aṣ-Ṣayqal
112. Abū ʿUmārah is the aforementioned ʿUmārah or ʿAmmār or Abū ʿAmmār
113. Abū ʿUmar is the aforementioned Dharr ibn ʿAbdullāh al-Hamdānī
114. Abū ʿUmar is the aforementioned ʿAbd al-Majīd
115. Abū ʿAmr is the aforementioned Aswad ibn Yazīd an-Nakhaʿī
116. Abū ʿAmr is the aforementioned Qays ibn Muslim al-Jadalī
117. Abū ʿAmr is the aforementioned Mujālid ibn Saʿīd
118. Abū ʿAmr is the aforementioned ʿAbd ar-Raḥmān ibn ʿAmr al-Awzāʿī

119. Abū ʿAmr al-Kūfī is the aforementioned ʿĀmir ibn Sharāḥīl ash-Shaʿbī
120. Abū ʿAmrah is the aforementioned Maʿqil ibn Muqarrin
121. Abu'l-ʿAwjā' al-ʿIshār is mentioned in the text but has no narrations
122. Abū ʿAwn is the aforementioned ʿAbdullāh ibn ʿAwn
123. Abū ʿĪsā is the aforementioned al-Mughīrah ibn Shuʿbah
124. Abū ʿĪsā is the aforementioned Mūsā ibn Muslim al-Ḥazzāmī
125. Abū Ghādiyah is the aforementioned Qazaʿah ibn Yaḥyā
126. Abū Ghassān at-Taymī al-Murādī al-Kūfī
127. Abū Farwah is the aforementioned Muslim ibn Sālim an-Nahdī
128. Abū Faḍālah is the aforementioned Mubārak ibn Faḍālah
129. Abu'l-Qāsim is the aforementioned aḍ-Ḍaḥḥāk ibn Mazāḥim
130. Abu'l-Qāsim is the aforementioned Muḥammad ibn ʿAlī ibn Abī Ṭālib
131. Abū Qatādah al-Anṣārī as-Sulamī the cavalier of the Messenger of Allah ﷺ whose name was al-Ḥārith ibn Ribʿī, but some said "an-Nuʿmān" and some said "ʿAmr", but the well known position is that he was al-Ḥārith ibn Ribʿī ibn Baldamah ibn Khunās ibn Sinān ibn ʿUbayd as-Sulamī al-Madanī
     The authors of the six books
132. Abū Quḥāfah is ʿUthmān ibn ʿĀmir ibn ʿAmr ibn Kaʿb ibn Saʿd ibn Taym ibn Murrah al-Qurashī at-Taymī, the father of Abū Bakr aṣ Ṣiddīq
133. Abū Qilābah is ʿAbdullāh ibn Zayd ibn ʿAmr, but some said "ʿĀmir" ibn Nābil ibn Mālik ibn ʿUbayd ibn ʿAlqamah ibn Saʿd al-Jurmī al-Baṣrī, one of the notable figures
     The authors of the six books
134. Abū Kibāsh al-ʿAbsī, but some have said "as-Sulamī" and others "Abū ʿAyyāsh"
     At-Tirmidhī in his *Sunan*
135. Umm Kulthūm is the daughter of ʿAlī ibn Abī Ṭālib and is al-Hāshimiyyah, the full sister of al-Ḥasan and al-Ḥusayn
136. Abū Kanf
     He is mentioned in the *Āthār* but has no narrations

137. Abū Mājid, but some said “Abū Mājidah”, al-Ḥanafī al-ʿIjlī al-Kūfī. He is ʿĀ’idh ibn Naḍālah
Abū Dāwūd in his *Sunan*, at-Tirmidhī in his *Sunan*, Ibn Mājah in his *Sunan*
138. Abū Mālik al-Kūfī is the aforementioned Ziyād ibn ʿIlāqah
139. Abū Muḥammad is the aforementioned ʿAbdullāh ibn Idrīs
140. Abū Muḥammad is the aforementioned Ṭalḥah ibn ʿUbaydullāh the Companion
141. Abū Muḥammad is the aforementioned Ṭalḥah ibn Muṣarrif
142. Abū Muḥammad is the aforementioned ʿAṭā’ ibn Abī Rabāḥ
143. Abū Muḥammad is the aforementioned Maʿqil ibn Sinān
144. Abū Muḥammad is the aforementioned ʿAbd ar-Raḥmān ibn ʿAwf
145. Abū Muḥammad al-Kūfī is the aforementioned Ṣufyān ibn ʿUyaynah
146. Abū Maryam is the aforementioned Zirr ibn Ḥubaysh
147. Abū Mughīrah is the aforementioned Manṣūr ibn Zādhān
148. Abu’l-Mughīrah al-Kūfī is the aforementioned Simāk ibn Ḥarb
149. Abu’l-Mughīrah al-Kūfī is the aforementioned ʿAlī ibn Rabīʿah
150. Abu’l-Mundhir is the aforementioned Ubayy ibn Kaʿb the Companion
151. Abu’l-Mundhir is the aforementioned Hishām ibn ʿUrwah
152. Abū Najīd is the aforementioned ʿImrān ibn Ḥuṣayn the Companion
153. Abū Naṣr is the aforementioned Muslim ibn ʿAbdullāh
154. Abu’n-Naḍrah is the aforementioned al-Mundhir ibn Mālik
155. Abū Nuʿaym is the aforementioned Wahb ibn Kaysān
156. Abū Wā’il is the aforementioned Shaqīq ibn Salamah
157. Abū Wā’ilah or Abū Wāthilah or Ibn Wāthilah is the aforementioned ʿĀmir ibn Wāthilah
158. Abu’l-Wazzāʿ is the aforementioned ʿAlī ibn al-Aqmar
159. Abu’l-Walīd is the aforementioned ʿAbdullāh ibn Shaddād
160. Abū Hāshim ar-Rummānī al-Wāsiṭī is Yaḥyā ibn Dīnār, but some said his name was “Ibn al-Aswad” and others “Ibn Abi’l-Aswad” and others “Ibn Nāfiʿ”
The authors of the six books

161. Abū Hurayrah ad-Dawsī al-Yamānī the Ḥāfiẓ of the Companions of the Messenger of Allah ﷺ. People differ a great deal about his name and that of his father, and some say "ʿAbd ar-Raḥmān ibn Ṣakhr" some "Ibn Ghanam" etc.
    The authors of the six books
162. Abū Yaḥyā is the aforementioned ʿUmayr ibn Saʿīd
163. Abū Yaḥyā is the aforementioned ʿAmr ibn Dīnār
164. Abū Yaḥyā al-Kūfī is the aforementioned Salamah ibn Kuhayl
166. Abū Yaʿfūr is the aforementioned ʿUrwah ibn al-Mughīrah

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The Muwatta of Imam Muhammad

Imam Muhammad ibn al-Hasan
ash-Shaybani (135/752 – 189/804)

Imam Malik composed the *Muwatta* over a period of forty years to represent the "well-trodden path" of the people of Madinah. Its name also means that it is the book that is "many times agreed upon" – about whose contents the people of Madinah were unanimously agreed – and that is "made easy and facilitated". Its high standing is such that people of every school of *fiqh* and all of the imams of hadith scholarship agree upon its authenticity. Ash-Shafi'i said, "There is not on the face of the earth – after the Book of Allah – a book which is more *sahih* than the book of Malik."Hafidh Ibn Hajar al-'Asqalani said: "The unqualified truth is that all of the Muwatta is *sahih* without any exception." Shah Wali Allah ad-Dihlawi (1114-1176 AH) said, "My breast expanded and I became certain that the Muwatta is the most *sahih* book to the Muwatta is the most *sahih* book to be found on the earth after the Book of Allah."

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THE *KITĀB AL-ĀTHĀR* was the first book composed in Islam after the generation of the Companions رضي الله عنهم. Al-Imām al-Aʿẓam Abū Ḥanīfah Nuʿmān ibn Thābit wrote it. It comprises Ḥadīth that connect directly back to the Messenger of Allah ﷺ (*marfūʿ*), those which stop short at a Companion or one of the Followers (*mawqūf*) and those which are attributed to the Messenger ﷺ directly by one of the Followers or Followers of the Followers without attribution to a Companion (*mursal*).

His companions Imām Abū Yūsuf, Imām Zufar, Imām Muḥammad, Imām al-Ḥasan ibn Ziyād, Imām Ḥammād ibn Abī Ḥanīfah the Imām's son, Ḥafṣ ibn Ghiyāth and others narrated it from him. In the version before us, Imām Muḥammad, himself a *mujtahid*, narrated each tradition from Imām Abū Ḥanīfah and then followed each with some explanatory material, sometimes confirming and occasionally differing with his Imām.

Imām Abū Ḥanīfah

Imām Abū Ḥanīfah was from Kufa and one of the Followers (*tābiʿūn*). He was born in 80 AH in a family of Persian ancestry. Imām Abū Ḥanīfah was a trader in fabrics. He studied with the great scholars of Kūfa who transmitted the schools of Ibn Masʿūd and ʿAlī ibn Abī Ṭālib رضي الله عنه in particular, but he also travelled further afield in search of hadith and fiqh. He was noted for his exceptional grasp of fiqh, and is said to have laid its foundations. He died in 150 AH in Baghdād. His list of teachers is very extensive, and his list of pupils a roll-call of honour.

Sahl ibn Muzāhim said, “Abū Hanifah’s knowledge was universal knowledge.” Ash-Shāfiʿī said, “In fiqh, people are the needy dependents of Abū Ḥanīfah.”

Imām Muḥammad

He is Abū ʿAbdullāh Muḥammad ibn al-Ḥasan ibn Farqad ash-Shaybānī. Muḥammad was born in Wāsiṭ in 132 AH, and grew up in Kūfa. He was a pupil of Abū Ḥanīfah. Ash-Shāfiʿī said, “I have not seen anyone more eloquent than him. I used to think when I saw him reciting the Qur’ān that it was as if the Qur’ān had been revealed in his language.” He also said, “I have not seen anyone more intelligent than Muḥammad ibn al-Ḥasan.” He died in Ray in 189 AH.

Ḥāfiẓ Riyāḍ Aḥmad al-Multānī

The explanatory footnotes to this text are the work of the contemporary scholar Ḥāfiẓ RiyāḍAḥmad from Multān in Pakistan.

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